

MONTANA LEGISLATIVE HISTORY

Chapter 23 19 75

Bill H 22 S _____ Original bill & history ☒ C

H. Committee on Labour & Employment Relations S. Committee on Labour & Employment Relations

Hearing Date(s) Jan 10 ☒ C

Hearing Date(s) Feb 10 ☒ C

Jan 25 ☒ C

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Date Out Jan 25 ☒ C

Feb 10 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

1 HOUSE BILL NO. 22
2 INTRODUCED BY WM. BAETH
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE CODIFICATION
5 AND GENERAL REVISION OF THE LAWS RELATING TO THE WORKMEN'S
6 COMPENSATION ACT; AMENDING SECTIONS 92-111, 92-117, 92-118,
7 92-119, 92-120, 92-206, 92-426, 92-429, 92-432, 92-502,
8 92-506, 92-507, 92-508, 92-607, 92-608, 92-609, 92-614,
9 92-707, 92-715, 92-804, 92-806, 92-808, 92-809, 92-812,
10 92-813, 92-814, 92-814.1, 92-815, 92-816, 92-817, 92-818,
11 92-819, 92-820, 92-821, 92-822, 92-823, 92-824, 92-824.1,
12 92-825, 92-826, 92-827, 92-828, 92-829, 92-830, 92-831,
13 92-832, 92-834, 92-835, 92-836, 92-842, 92-903, 92-904,
14 92-905, 92-906, 92-907, 92-908, 92-1002, 92-1004, 92-1005,
15 92-1006, 92-1007, 92-1008, 92-1009, 92-1010, 92-1101,
16 92-1102, 92-1103, 92-1104, 92-1105, 92-1105.1, 92-1108,
17 92-1110, 92-1112, 92-1113, 92-1114, 92-1115, 92-1117,
18 92-1118, 92-1119, 92-1120, 92-1122, 92-1123, 92-1401,
19 92-1402, 92-1406, R.C.M. 1947, AND REPEALING SECTIONS
20 92-104, 92-105, 92-108 THROUGH 92-110, 92-112 THROUGH
21 92-115, 92-414, 92-415, 92-419, 92-420, 92-427, 92-428,
22 92-430, 92-431, 92-611, 92-612, 92-841, 92-843, 92-1404,
23 R.C.M. 1947."
24
25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 Section 1. Section 92-111, R.C.M. 1947, is amended to
2 read as follows:
3 "92-111. Office and furnishings--quarters. The board
4 division shall keep its principal office in the capital of
5 the state. It may rent or lease quarters for the conduct of
6 its administrative duties."
7 Section 2. Section 92-117, R.C.M. 1947, is amended to
8 read as follows:
9 "92-117. Blank forms, minutes and records. The board
10 division shall cause to be printed such blank forms as it
11 shall deem requisite to facilitate or promote the efficient
12 administration of this act. It shall provide a book in
13 which shall be entered the minutes of all its proceedings, a
14 book of record in which shall be recorded all awards made by
15 the board division, and such other books or records as it
16 shall deem requisite for the purpose and efficient
17 administration of this act. All such records are to be kept
18 in the office of the board division."
19 Section 3. Section 92-118, R.C.M. 1947, is amended to
20 read as follows:
21 "92-118. Reports and bulletins which may be published.
22 The board division shall have the power and authority to
23 publish and distribute at its discretion from time to time,
24 in addition to its report required by section 2 [82-4002] of
25 this act, such further reports and bulletins covering its

operations, proceedings, and matters relative to its work as it may deem advisable."

Section 4. Section 92-119, R.C.M. 1947, is amended to read as follows:

"92-119. Fees of board division. The board division shall have power and authority to charge and collect the following fees:

~~1~~ (1) For copies of papers and records not required to be certified or otherwise authenticated by the board division, fifteen cents (15¢) for each folio; for certified copies of official documents and orders filed in its office, or of the evidence taken at any hearing, twenty cents (20¢) for each folio.

~~2~~ (2) To fix and collect reasonable charges for publications issued under its authority.

~~3~~ (3) The fees charged and collected under this section shall be paid monthly into the treasury of the state, to the credit of the earmarked revenue fund, and shall be accompanied by detailed statement thereof."

Section 5. Section 92-120, R.C.M. 1947, is amended to read as follows:

"92-120. Attorney general legal adviser of board division. (1) The attorney general shall be the legal adviser of the board division, and shall represent it in all proceedings whenever so requested by the board division or

any member thereof.

~~(2) And it is further provided that the~~ The division may, in the investigation and defense of cases under plan three of the Workmen's Compensation Act, employ such other attorney or legal adviser, as it deems necessary, and pay for the same out of the industrial insurance account in the agency fund."

Section 6. Section 92-206, R.C.M. 1947, is amended to read as follows:

"92-206. Compensation plan No. 3 exclusive, etc., when a public corporation is the employer. Where a public corporation is the employer, the terms, conditions, and provisions of compensation plan No. 3 shall be exclusive, compulsory, and obligatory upon both employer and employee. Any sums necessary to be paid under the provisions of this act by any public corporation shall be considered to be ordinary and necessary expense of such corporation, and the governing body of such public corporation shall make appropriation of and pay such sums, into the accident or administration fund, as the case may be, at the time and in the manner provided for in this act, notwithstanding that such governing body may have failed to anticipate such ordinary and necessary expense in any budget, estimate of expenses, appropriations, ordinances, or otherwise. Whenever a contractor is engaged as an employer in the

performance of contract work for a public corporation, such employer must elect to be bound by the terms, conditions and provisions of either compensation plan No. 2 or compensation plan No. 3, and the terms, conditions and provisions of the plan chosen shall be compulsory and obligatory upon both employer and employee. Whenever any public corporation neglects or refuses to file with the ~~industrial-accident-board~~ division monthly payroll report of its employees, the ~~board-is-hereby-authorized-and-empowered~~ to division may levy an arbitrary assessment upon such public corporation in an amount of twenty-five dollars for each such assessment, which assessments shall be collected in the manner provided in this act for the collection of assessments."

Section 7. Section 92-426, R.C.M. 1947, is amended to read as follows:

"92-426. ~~Board-defined: "Boards"-means--the--industrial accident--board--of-the-state-of-Montana."~~ Division defined. "Division" means the division of workmen's compensation of the department of labor and industry provided for in section 82A-1004, R.C.M. 1947."

Section 8. Section 92-429, R.C.M. 1947, is amended to read as follows:

"92-429. Order defined. "Order" ~~shall-mean-and-include~~ means any decision, rule, regulation, direction,

requirement, or standard of the ~~board~~ division, or any other determination arrived at or decision made by ~~such-board,-the~~ division ~~excepting--general--or--local--orders--as---herein~~ specified."

Section 9. Section 92-432, R.C.M. 1947, is amended to read as follows:

"92-432. Payroll defined--estimate to establish payroll. "Payroll," "annual payroll" or "annual payroll for the preceding year," means the average annual payroll of the employer for the preceding calendar year, or, if the employer shall not have operated a sufficient or any length of time during such calendar year, twelve times the average monthly payroll for the current year; provided, that an estimate may be made by the ~~board~~ division for any employer starting in business where no average payrolls are available, such estimate to be adjusted by additional payment by the employer or refund by the ~~board~~ division, as the case may actually be on December 31st of such current year."

Section 10. Section 92-502, R.C.M. 1947, is amended to read as follows:

"92-502. When compensation to beneficiaries, ~~major-or~~ minor-dependents or widow ceases. If any beneficiaries ~~or~~ major--or-minor-dependents of a deceased employee die, or if the widow or widower remarry, the right of such beneficiary

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1 ~~or--major--or--minor--dependent~~ or such widow or widower to
2 compensation under this act shall cease."

3 Section 11. Section 92-506, R.C.M. 1947, is amended to
4 read as follows:

5 "92-506. No compensation to nonresident beneficiaries
6 until when. Before payment of compensation to a beneficiary
7 not residing within the United States, satisfactory proof of
8 such relationship as to constitute a beneficiary under this
9 act shall be furnished by such beneficiary, duly
10 authenticated under seal of an officer of a court of law in
11 the country where such beneficiary resides, at such times
12 and in such manner as may be required by the board division.
13 And such proof shall be conclusive as to the identity of
14 such beneficiary, and any other claim of any other person to
15 any such compensation shall be barred from and after the
16 filing of such proof."

17 Section 12. Section 92-507, R.C.M. 1947, is amended to
18 read as follows:

19 "92-507. Payment to nonresident beneficiaries made to
20 whom. Payment of compensation to a beneficiary not residing
21 within the United States may be made to any plenipotentiary,
22 or consul, or consular agent within the United States,
23 representing the country in which such nonresident
24 beneficiary resides, and the written receipt of such
25 plenipotentiary, or consul, or consular agent shall acquit

1 the employer, the insurer, or the board division, as the
2 case may be."

3 Section 13. Section 92-508, R.C.M. 1947, is amended to
4 read as follows:

5 "92-508. Compensation paid to parent or guardian.
6 Where payment is due to a child under eighteen (18) years of
7 age or to a person adjudged incompetent, the same shall be
8 made to the parent or to the duly appointed guardian, as the
9 case may be, and the written receipt of such parent or
10 guardian shall acquit the employer, the insurer or board
11 division, as the case may be, of further liability. In
12 other cases, payment shall be made to the person entitled
13 thereto or to his duly authorized representative."

14 Section 14. Section 92-607, R.C.M. 1947, is amended to
15 read as follows:

16 "92-607. Work to be paid for in property other than
17 money--wages. Where any employer procures any work to be
18 done, payment for which is to be made in property other than
19 money or its equivalent, and the value of which property is
20 speculative or intangible, the wages of the employees
21 receiving such compensation shall be determined by the board
22 division in accordance with the going wage for the same or
23 similar work in the district or locality where the same is
24 to be performed, provided, however, that However, where an
25 employer procures any work to be done by any contractor, or

1 through him by a subcontractor, the payment for which is to
2 be made in property other than money or its equivalent, and
3 the value of which property is speculative or intangible,
4 then and in that event, the employer shall not be liable for
5 compensation, but such liability shall fall upon the
6 contractor or subcontractor, as the case may be."

7 Section 15. Section 92-608, R.C.M. 1947, is amended to
8 read as follows:

9 "92-608. Compensation in case of death of
10 employee--determination of beneficiary, etc. (1) If an
11 injured employee dies and the injury was the proximate cause
12 of such death, then the beneficiary~~7-or-the-major-or-minor~~
13 ~~dependents~~ of the deceased, as the case may be, shall
14 receive the same compensation as though the death occurred
15 immediately following the injury, but the period during
16 which the death benefit shall be paid shall be reduced by
17 the period during or for which compensation was paid for the
18 injury.

19 (2) If the employee shall die from some cause other
20 than the injury, there shall be no liability for
21 compensation after his death.

22 (3) The question as to who constitutes a beneficiary~~7~~
23 ~~or-a-major-or-minor-dependent7~~ shall be determined as of the
24 date of the happening of the accident to the employee,
25 whether death shall immediately result therefrom or not."

1 Section 16. Section 92-609, R.C.M. 1947, is amended to
2 read as follows:

3 "92-609. Examination of employee by physician--request
4 or order for--physician may testify. (1) Whenever in case
5 of injury the right to compensation under this act would
6 exist in favor of any employee, he shall, upon the written
7 request of his employer or the insurer, submit from time to
8 time to examination by a physician, who shall be provided
9 and paid for by such employer or insurer, and shall likewise
10 submit to examination from time to time by any physician
11 selected by the ~~board~~ division, or any member or examiner,
12 or referee thereof.

13 (2) The request or order for such examination shall
14 fix a time and place therefor, due regard being had to the
15 convenience of the employee and his physical condition and
16 ability to attend at the time and place fixed. The employee
17 shall be entitled to have a physician, provided and paid for
18 by himself, present at any such examination. So long as the
19 employee, after such written request, shall fail or refuse
20 to submit to such examination, or shall in any way obstruct
21 the same, his right to compensation shall be suspended. Any
22 physician employed by the employer, the insurer, or the
23 ~~board~~ division, who shall make or be present at any such
24 examination, may be required to testify as to the results
25 thereof."

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Section 17. Section 92-614, R.C.M. 1947, is amended to read as follows:

"92-614. Who liable for injuries under the different plans of act and in what amounts, extraterritorial application and reciprocity. (1) Every employer who shall become bound by and subject to the provisions of compensation plan number one (1), and every employer and insurer who shall become bound by and subject to the provisions of compensation plan number two (2), and the industrial accident fund where the employer of the injured employee has become bound by and subject to the provisions of compensation plan No. 3, shall be liable for the payment of compensation in the manner and to the extent hereinafter provided to an employee who has elected to come under this act, and who shall receive an injury arising out of and in the course of his employment, or, in the case of his death from such injury, to his beneficiaries, if any, ~~or, if none, to his major dependents, if any, or, if none, to his minor dependents, if any.~~

(2) If a workman employed in this state who is subject to the provisions of this act temporarily leaves the state incidental to that employment and receives an injury arising out of and in the course of such employment, the provisions of this act shall apply to such workman as though he were injured within this state.

(3) If a workman from another state and his employer from another state are temporarily engaged in work within this state, this act shall not apply to them:

(a) if the employer and employee are bound by the provisions of the Workmen's Compensation Law or similar law of such other state which applies to them while they are in the state of Montana, and

(b) if the Workmen's Compensation Act of this state is recognized and given effect as the exclusive remedy for workmen employed in this state who are injured while temporarily employed in such other state.

(4) A certificate from an authorized officer of the workmen's compensation department or similar agency of another state certifying that an employer of such other state is bound by the Workmen's Compensation Act of the state and that its act will be applied to employees of the employer while in the state of Montana shall be prima facie evidence of the application of the Workmen's Compensation Law of the certifying state.

(5) The ~~industrial-accident-board-shall-have-authority~~ division may, with the approval of the governor, ~~to~~ enter into agreements with workmen's compensation agencies of other states for the purpose of promulgating regulations not inconsistent with the provisions of this act to carry out the extraterritorial application of the workmen's

1 compensation laws of the agreeing states."

2 Section 18. Section 92-707, R.C.M. 1947, is amended to
3 read as follows:

4 "92-707. Compensation from what date paid. When an
5 ~~injured-employee-has-no-wife,-child,-father,-mother,-brother~~
6 ~~or-sister-residing-within-the-United--States--who--would--be~~
7 ~~entitled---to---compensation---in--case--of--his--death,-no~~
8 ~~compensation-shall-be-allowed-or-paid-during-the-first--week~~
9 ~~of--any--injury,-except-as-may-be-required-by-the-provisions~~
10 ~~of-the-preceding-section,-but-if--disability--continues--one~~
11 ~~(1)--week,-compensation-shall-be-paid--from--the-date-of~~
12 ~~injury,-Where-the injured employee has a beneficiary or--a~~
13 ~~major--or--minor-dependent-residing-within-the-United-States~~
14 ~~who would-be is~~ entitled to compensation in case of his
15 death, no compensation shall be paid for the first week of
16 any injury, but if disability continues one (1) week,
17 compensation shall be paid from the date of injury~~7.~~
18 ~~provided,-that~~ However, separate benefits of medical and
19 hospital services shall be furnished from the date of
20 injury."

21 Section 19. Section 92-715, R.C.M. 1947, is amended to
22 read as follows:

23 "92-715. Biweekly payments converted into a lump sum.
24 The biweekly payments provided for in this act may be
25 converted, in whole or in part, into a lump-sum payment,

1 which lump-sum payment shall not exceed the estimated value
2 of the present worth of the deferred payments capitalized at
3 the rate of two per-centum percent (2%) per annum. Such
4 conversion can only be made upon the written application of
5 the injured workman~~7~~ or his beneficiary~~7,-or-major--or--minor~~
6 ~~dependents,-as--the--case--may--be~~ and shall rest in the
7 discretion of the ~~board~~ division, both as to the amount of
8 such lump-sum payment and the advisability of such
9 conversion. The ~~board~~ division is hereby vested with full
10 power, authority, and jurisdiction to compromise claims and
11 to approve compromises of claims under this act~~7.~~ and--all
12 All settlements and compromises of compensation provided in
13 this act ~~shall-be-absolutely-null-and~~ are void without the
14 approval of the ~~board~~ division. Any approval of the ~~board~~
15 division must be in writing and set forth specifically the
16 reasons for such lump-sum or compromise payment."

17 Section 20. Section 92-804, R.C.M. 1947, is amended to
18 read as follows:

19 "92-804. Misrepresenting payroll. Any employer who
20 ~~shall-misrepresent~~ misrepresents to the ~~board~~ division the
21 amount of a payroll upon which the premiums or assessments
22 under compensation plan number three are to be levied, or
23 upon which fees for factory inspection, subsequent
24 inspection, or reinspection, as elsewhere provided in this
25 act, are based, shall be liable to the state in ten (10)

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1 times the amount of difference between the amount paid and
 2 the amount which should have been paid. Such liability may
 3 be recovered in a civil action brought in the name of the
 4 state. All sums collected under this section shall be paid
 5 into the fund to which the original payments were, or should
 6 have been credited."

7 Section 21. Section 92-806, R.C.M. 1947, is amended to
 8 read as follows:

9 "92-806. Duplicate receipts paid for injuries to be
 10 filed--statements of medical expenditures. Every employer
 11 coming under the provisions of compensation plan number one,
 12 and every insurer coming under the provisions of
 13 compensation plan number two, shall, on or before the
 14 fifteenth day of each and every month, file with the
 15 ~~industrial--accident--board~~ board division duplicate receipts for
 16 all payments made during the previous month to injured
 17 workmen or their beneficiaries or dependents; and statements
 18 showing the amounts expended during the previous month for
 19 medical, surgical, and hospital services, and for the burial
 20 of injured workmen."

21 Section 22. Section 92-808, R.C.M. 1947, is amended to
 22 read as follows:

23 "92-808. Employers and insurers required to file
 24 reports of accidents. Every employer of labor and every
 25 insurer is hereby required to file with the board division,

1 under such rules ~~and-regulations~~ as the board division may,
 2 from time to time make, a full and complete report of every
 3 accident to an employee arising out of or in the course of
 4 his employment and resulting in loss of life or injury to
 5 such person. Such reports shall be furnished to the board
 6 division in such form and such detail as the board division
 7 shall from time to time prescribe, and shall make specific
 8 answers to all questions required by the board division
 9 under its rules ~~and--regulations~~, except, in case he is
 10 unable to answer any such questions, a good and sufficient
 11 reason shall be given for such failure."

12 Section 23. Section 92-809, R.C.M. 1947, is amended to
 13 read as follows:

14 "92-809. Confidential information used, how. No
 15 information furnished to the board division by an employer
 16 or an insurer shall be open to public inspection, or made
 17 public except on order of the board division, or by the
 18 board division or a member of the board division, in the
 19 course of a hearing or proceeding. Any officer or employee
 20 of the board division who, in violation of the provisions of
 21 this section, divulges any information, shall be guilty of a
 22 misdemeanor."

23 Section 24. Section 92-812, R.C.M. 1947, is amended to
 24 read as follows:

25 "92-812. Hearings and investigations--technical rules.

1 All hearings and investigations before the board division,
2 or any member thereof, shall be governed by this act and by
3 rules of practice and procedure to be adopted by the board
4 division, and in the conduct thereof neither the board
5 division nor any member thereof shall be bound by the
6 technical rules of evidence. No informality in any
7 proceedings or in the manner of taking testimony shall
8 invalidate any order, decision, award, rule, or regulation
9 made, approved, or confirmed by the board division."

10 Section 25. Section 92-813, R.C.M. 1947, is amended to
11 read as follows:

12 "92-813. Depositions may be taken. The board division,
13 or any member thereof, or any party to the action or
14 proceeding may, in any investigation or hearing before the
15 board division, cause the deposition of witnesses residing
16 within or without the state to be taken in the manner
17 prescribed by law for like depositions in civil actions in
18 the district courts of this state, and to that end may
19 compel the attendance of witnesses and the production of
20 books, documents, papers, and accounts."

21 Section 26. Section 92-814, R.C.M. 1947, is amended to
22 read as follows:

23 "92-814. Powers of board division. The board division
24 is hereby vested with full power, authority, and
25 jurisdiction to do and perform any and all things, whether

1 herein specifically designated or in addition thereto, which
2 are necessary or convenient in the exercise of any power,
3 authority, or jurisdiction conferred upon it under this
4 act."

5 Section 27. Section 92-814.1, R.C.M. 1947, is amended
6 to read as follows:

7 "92-814.1. Requiring claimant to submit to
8 examination--report of physician--cost. In the event of a
9 dispute concerning the physical condition of a claimant, or
10 the cause or causes of his injury or disability, if any, the
11 board division, at the request of the claimant, employer or
12 insurer, as the case may be, shall require the claimant to
13 submit to such examination as it may deem desirable by a
14 physician or physicians within the state of Montana or
15 elsewhere who have had adequate and substantial experience
16 in the particular field of medicine concerned with the
17 matters presented by the dispute. The physician making such
18 the examination shall file a written report of his findings
19 with the board division for its use in the determination of
20 the controversy involved. The board division shall pay the
21 physician for such the examination and shall be reimbursed
22 by the party who requested it."

23 Section 28. Section 92-815, R.C.M. 1947, is amended to
24 read as follows:

25 "92-815. Powers to issue writs and process--fees for

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1 serving. (1) The ~~board, and each member thereof shall have~~
 2 ~~power to~~ division may issue writs of summons, warrants of
 3 attachment, warrants of commitment, and all necessary
 4 process in proceedings for contempt in like manner and to
 5 the same extent as courts of record. The process issued by
 6 the ~~board or any member thereof~~ division shall extend to all
 7 parts of the state, and may be served by any persons
 8 authorized to serve process of courts of record, or by any
 9 person designated for that purpose by the ~~board, or any~~
 10 ~~member thereof~~ division.

91 (2) The person executing any such process shall
 12 receive such compensation as may be allowed by the ~~board~~
 13 division, not to exceed the fees now prescribed by law for
 14 similar service, and such fees shall be paid in the same
 15 manner as provided herein for the fees of witnesses."

16 Section 29. Section 92-816, R.C.M. 1947, is amended to
 17 read as follows:

18 "92-816. Power to administer oaths, certify official
 19 acts, issue subpoenas--witness fees and mileage. The ~~board~~
 20 ~~and each member thereof~~ division, its secretary and
 21 referees, ~~shall have the power to~~ may administer oaths,
 22 certify to all official acts, and to issue subpoenas for the
 23 attendance of witnesses and the production of papers, books,
 24 accounts, documents, and testimony in any inquiry,
 25 investigation, hearing, or proceeding in any part of the

1 state. Each witness who shall appear by order of the ~~board,~~
 2 ~~or any member thereof~~ division shall be entitled to receive,
 3 if demanded, for his attendance the same fees and mileage
 4 allowed by law to a witness in civil cases in the district
 5 court, which amount shall be paid by the party at whose
 6 request such witness is subpoenaed, unless otherwise ordered
 7 by the ~~board~~ division. When any witness, who has not been
 8 required to attend at the request of any party, is
 9 subpoenaed by the ~~board~~ division, his fees and mileage may
 10 be paid from the funds appropriated for the use of the ~~board~~
 11 division in the same manner as other expenses of the ~~board~~
 12 division are paid. Any witness subpoenaed, except one whose
 13 fees and mileage may be paid from the funds of the ~~board~~
 14 division, may at the time of service demand the fee to which
 15 he is entitled for travel to and from the place at which he
 16 is required to appear, and one day's attendance. If such
 17 witness demands such fees at the time of service and they
 18 are not at that time paid or tendered, he shall not be
 19 required to attend before the ~~board, or any member thereof~~
 20 division or referee, as directed in the subpoena."

21 Section 30. Section 92-817, R.C.M. 1947, is amended to
 22 read as follows:

23 "92-817. Power of district court concerning production
 24 of testimony--contempt. The district court in and for the
 25 county in which any inquiry, investigation, hearing, or

1 proceeding may be held by the ~~board, or any member thereof~~
 2 division, shall have the power to compel the attendance of
 3 witnesses, the giving of testimony, and the production of
 4 papers, books, accounts, and documents as required by any
 5 subpoena issued by the ~~board, or any member thereof~~
 6 division. The ~~board, or any member thereof~~ division before
 7 whom the testimony is to be given or produced, in case of
 8 the refusal of any witness to attend or testify or produce
 9 any papers required by such subpoena, may report to the
 10 district court in and for the county in which the proceeding
 11 is pending, by petition, setting forth that due notice has
 12 been given of the time and place fixed for the attendance of
 13 said witness, or the production of said papers, and that the
 14 witness has been summoned in the manner prescribed in this
 15 act, and that the witness has failed and refused to attend,
 16 or produce the papers required by the subpoena before the
 17 ~~board, or any member thereof~~ division in the case or
 18 proceeding named in the notice and subpoena, or has refused
 19 to answer questions propounded to him in the course of such
 20 proceedings, and ask an order of ~~said the~~ court compelling
 21 the witness to attend and testify or produce said papers
 22 before the ~~board~~ division. The court, upon the petition of
 23 the ~~board, or any member of the board~~ division shall enter
 24 an order directing the witness to appear before the court at
 25 the time and place to be fixed by the court in such order,

1 not more than ten days from the date of the order, and then
 2 and there show cause why he had not attended or testified,
 3 or produced such papers before the ~~board~~ division. A copy
 4 of ~~said the~~ order shall be served upon ~~said the~~ witness. If
 5 it shall appear to the court that ~~said the~~ subpoena was
 6 regularly issued by the ~~board, or a member thereof~~ division
 7 and regularly served, the court shall thereupon enter an
 8 order that ~~said the~~ witness appear at the time and place
 9 fixed in ~~said the~~ order, and testify or produce the required
 10 papers, and upon failure to obey ~~said the~~ order, ~~said the~~
 11 witness shall be dealt with as for contempt of court. The
 12 remedy provided in this section is cumulative, and shall not
 13 be construed to impair or interfere with the power of the
 14 ~~board, or a member thereof~~ division to enforce the
 15 attendance of witnesses and the production of papers, and to
 16 punish for contempt, in the same manner and to the same
 17 extent as courts of record."

18 Section 31. Section 92-818, R.C.M. 1947, is amended to
 19 read as follows:

20 "92-818. Certificates and certified copies as
 21 evidence. Copies of official documents and orders filed or
 22 deposited according to law in the office of the ~~board~~
 23 division, certified to by a member of the ~~board~~ division, or
 24 by the secretary under the official seal of the ~~board~~
 25 division, to be true copies of the original, shall be

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evidence in like manner as the originals. In any court proceeding, wherein the question as to whether or not an employer or employee has complied with and is operating under or bound by the provisions of the Workmen's Compensation Act of the state of Montana, is a question for determination, a certificate by a member of the board division, or by the secretary under the official seal of the board division, certifying that such employer or employee has or has not complied with, and is or is not operating under, and is or is not bound by the provisions of the Workmen's Compensation Act of the state of Montana, shall be prima facie evidence thereof."

Section 32. Section 92-819, R.C.M. 1947, is amended to read as follows:

"92-819. Apportionment of costs and disbursements--expenses. The costs and disbursements incurred in any proceeding or hearing before the ~~board, or a member--thereof~~, division may be apportioned between the parties on the same or adverse sides, in the discretion of the board division."

Section 33. Section 92-820, R.C.M. 1947, is amended to read as follows:

"92-820. Books, records and payrolls to be open to inspection. The books, records, and payrolls of the employer, pertinent to the administration of this act, shall

always be open to inspection by the board division or any duly authorized employee thereof, for the purpose of ascertaining the correctness of the payroll, the number of men employed, and such other information as may be necessary for the board division and its management under this act. Refusal on the part of the employer to submit said books, records, and payrolls for such inspection shall subject the offending employer to a penalty of one hundred dollars (\$100) for each offense, to be collected by civil action in the name of the state, and paid into the state treasury."

Section 34. Section 92-821, R.C.M. 1947, is amended to read as follows:

"92-821. Jurisdiction of board division to hear disputes and controversies. All proceedings to determine disputes or controversies arising under this act shall be instituted before the board division, and not elsewhere, and heard and determined by ~~them~~ the division, except as otherwise in this act provided, and the board division is hereby vested with full power, authority, and jurisdiction to try and finally determine all such matters, subject only to review in the manner and within the time in this act provided."

Section 35. Section 92-822, R.C.M. 1947, is amended to read as follows:

"92-822. Presumption as to legality of rules, orders,

1 findings, etc., of board division. All orders, rules, and
2 regulations, findings, decisions, and awards of the board
3 division in conformity with law shall be in force and shall
4 be prima facie lawful; and all such orders, rules, and
5 regulations, findings, decisions, and awards shall be
6 conclusively presumed to be reasonable and lawful, until and
7 unless they are modified or set aside by the board division
8 or upon review."

9 Section 36. Section 92-823, R.C.M. 1947, is amended to
10 read as follows:

11 "92-823. Time for filing--final findings and awards.
12 The board division shall hold the initial hearing to
13 determine any dispute or controversy arising under this act
14 within ninety (90) days from the date on which such disputed
15 claim was filed with the board division. After a final
16 hearing by the board division, it shall within thirty (30)
17 days, make and file its findings upon all facts involved in
18 the controversy, and its award, which shall state its
19 determination as to the right of the parties."

20 Section 37. Section 92-824, R.C.M. 1947, is amended to
21 read as follows:

22 "92-824. Power of board division to award compensation
23 and time and manner of payment. The board division in its
24 award may fix and determine the total amount of compensation
25 to be paid, and specify the manner of payment, or may fix

1 and determine the weekly disability indemnity to be paid,
2 and order payment thereof during the continuance of such
3 disability, ~~providing, however, that--the~~ The payment of
4 such award and indemnity shall be in the same manner as that
5 of undisputed awards and indemnities coming within the
6 particular plan provided for in this act to which ~~said~~ the
7 award and indemnity belong."

8 Section 38. Section 92-824.1, R.C.M. 1947, is amended
9 to read as follows:

10 "92-824.1. Increase in award for unreasonable delay or
11 refusal to pay. When payment of compensation has been
12 unreasonably delayed or refused, either prior or subsequent
13 to the issuance of an award, the full amount of the order,
14 decision or award may be increased by ten per cent (10%) of
15 the weekly award. The question of unreasonable delay or
16 refusal shall be determined by the board division and such a
17 finding shall constitute good cause to rescind, alter or
18 amend any order, decision or award previously made in said
19 cause for the purpose of making the increase provided
20 herein."

21 Section 39. Section 92-825, R.C.M. 1947, is amended to
22 read as follows:

23 "92-825. When a nominal disability indemnity may be
24 awarded. If in any proceeding it is proved that an accident
25 has happened for which the employer would be liable to pay

1 compensation if disability has resulted therefrom, but it is
 2 not proved that an incapacity has resulted, the ~~board~~
 3 division may, instead of dismissing the application, award a
 4 nominal disability indemnity if it appears that disability
 5 is likely to result at a future time."

6 Section 40. Section 92-326, R.C.M. 1947, is amended to
 7 read as follows:

8 "92-826. Jurisdiction to rescind or amend any order,
 9 decision, award, etc. The board division shall have
 10 continuing jurisdiction over all its orders, decisions, and
 11 awards, and may, at any time, upon notice, and after
 12 opportunity to be heard is given to the parties in interest,
 13 rescind, alter, or amend any such order, decision, or award
 14 made by it upon good cause appearing therefor. Provided,
 15 that the ~~board~~ division shall not have power to rescind,
 16 alter, or amend any final settlement or award of
 17 compensation more than four (4) years after the same has
 18 been made, and provided further that the board division
 19 shall not have the power to rescind, alter or amend any
 20 order approving a full and final compromise settlement of
 21 compensation. Any order, decision, or award rescinding,
 22 altering, or amending a prior order, decision, or award,
 23 shall have the same effect as original orders or awards."

24 Section 41. Section 92-827, R.C.M. 1947, is amended to
 25 read as follows:

1 "92-827. Record of proceedings to be kept and
 2 testimony to be taken down--attorney's fees--transcripts on
 3 appeal--indigent claimants. (1) A full and complete record
 4 shall be kept of all proceedings and hearings had before the
 5 ~~board, or any member thereof,~~ division of any formal hearing
 6 had, and all testimony produced before the ~~board or any~~
 7 ~~member--thereof~~ division shall be taken down by a
 8 stenographic reporter appointed by the board division, and
 9 the parties shall be entitled to be heard in person or by
 10 attorney.

11 (2) Whenever the claimant or plaintiff is represented
 12 by an attorney either before the board division or the
 13 courts, the ~~industrial-accident-board~~ division may, in its
 14 discretion or upon the application of the claimant or
 15 plaintiff, fix the amount of the attorney fee of the
 16 attorney representing the claimant or plaintiff, and the fee
 17 fixed by the board division shall be paid by claimant or
 18 plaintiff.

19 (3) In cases of an action to review any order or
 20 decision of the board division, a transcript of such
 21 testimony, together with all exhibits, and of the pleadings,
 22 records, and proceedings in the cause shall constitute the
 23 record of the board division. ~~Provided-further,--that--the~~
 24 ~~board~~ The division must furnish a copy of such testimony,
 25 written exhibits, pleadings, records and proceedings to the

claimant without cost.

(4) After judgment on appeal to the district court, an indigent claimant, deeming himself aggrieved, may file in ~~said~~ the court an affidavit that he does not have money, property or credit sufficient to pay for the cost of a transcript on appeal to the supreme court, and the clerk of court serve a copy by registered mail, return receipt requested, on the ~~industrial-accident-board--the~~ division. The affidavit shall be prima facie evidence of the truth of the facts stated therein, ~~in-the-event~~ If the ~~board-contest~~ division contests the allegations, the court shall fix a date for the hearing thereof, not less than five (5) nor more than ten (10) days from the date of filing, and shall make its determination of the controversy, and if it be found and adjudged that the claimant does not have sufficient money, property or credit to pay for ~~such~~ the transcript, the order shall direct the ~~industrial--accident~~ board division to furnish the same at its expense to be paid from the industrial accident administrative earmarked revenue account.

(5) All proceedings on ~~such~~ appeal, including preparation, presentation and settlement of the bill of exceptions, shall be continued pending determination of the controversy.

(6) If the board division does not contest the

allegations of the claimant's affidavit within ten (10) days from receipt, it shall be deemed in default and the court shall make its order in favor of claimant on expiration of such period."

Section 42. Section 92-828, R.C.M. 1947, is amended to read as follows:

"92-828. Collateral attack not permitted. No orders or decisions of the board division shall be subject to collateral attack, and may be reviewed or modified only in the manner provided therein."

Section 43. Section 92-829, R.C.M. 1947, is amended to read as follows:

"92-829. Application for rehearing. At any time within twenty (20) days after the service of any order or decision of the board division, any party or parties aggrieved thereby may apply for a rehearing upon one or more of the following grounds, and upon no other grounds:

(1) That the board division acted without or in excess of its powers;

(2) That the order, decision, or award was procured by fraud;

(3) That the evidence does not justify the findings;

(4) That the applicant has discovered new evidence, material to him, and which he could not, with reasonable diligence, have discovered and produced at the hearing;

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(5) That the findings do not support the order, decision, or award;

(6) That the order, decision, or award is unreasonable."

Section 44. Section 92-830, R.C.M. 1947, is amended to read as follows:

"92-830. ~~board~~ Division may at any time diminish or increase an award. Nothing contained in the preceding section shall, however, be construed to limit the right of the ~~board~~ division, at any time after the date of its award, and from time to time after due notice and upon the application of any party interested, to review, diminish, or increase, within the limits provided by this act, any compensation awarded upon the grounds that the disability of the person in whose favor such award was made has either increased or diminished or terminated."

Section 45. Section 92-831, R.C.M. 1947, is amended to read as follows:

"92-831. Application for rehearing--contents--rules of procedure. The application for rehearing shall set forth specifically and in full detail the grounds upon which the applicant considers ~~said~~ the order, decision, award, rule, or regulation to be unjust, or unlawful, and shall in other respects conform to such rules ~~and regulations~~ as the ~~board~~ division may prescribe. The ~~board shall have full power and~~

~~authority to make and prescribe~~ division may adopt rules to govern the procedure upon rehearing, and any matter before it and any order made after such rehearing abrogating or changing the original order shall have the same force and effect as an original order, and shall not affect any right, or enforcement of any right, arising from or by virtue of the original order."

Section 46. Section 92-832, R.C.M. 1947, is amended to read as follows:

"92-832. Application for rehearing or appeal shall not operate as stay. An application for rehearing or the appeal hereinafter provided shall not excuse any employer, employee, or other person from complying with or obeying any order or requirement of the ~~board~~ division, or operate in any manner to stay or postpone the enforcement of an order or requirement thereof, except as the ~~board~~ division or the court may direct."

Section 47. Section 92-834, R.C.M. 1947, is amended to read as follows:

"92-834. How appeal taken--notice--record--trial. ~~Said~~ The appeal shall be taken by serving a ~~written notice of~~ said appeal upon the chairman of such industrial accident commission, or upon any other member thereof, which said ~~service shall be made by the delivery of a copy of such a~~ notice of appeal to such chairman or member, on the

1 division and filing the original with the clerk of the court
 2 to which ~~said~~ the appeal is taken. A copy of ~~such~~ the
 3 notice must also be served upon the adversary party, if
 4 ~~there--be~~ any, by mailing the ~~same~~ copy to ~~said~~ the
 5 adversary party to ~~such~~ the address of ~~such~~ the party as
 6 ~~said~~ the party shall have left with the board division. If
 7 ~~such~~ the party ~~shall-have~~ has left no address with the board
 8 division, then no service upon ~~such~~ the party shall be
 9 required. The order of filing and service of ~~said~~ the
 10 notice is immaterial. Immediately upon service upon ~~said~~ the
 11 board the division of ~~said~~ the notice, the ~~said-board~~
 12 division shall certify to ~~said~~ the district court the entire
 13 record and proceedings, including all testimony and evidence
 14 taken by ~~said-board~~ the division, with the clerk of ~~said~~ the
 15 district court. Immediately upon the return of ~~such~~ the
 16 certified record, the district court shall fix a day for the
 17 hearing of ~~said~~ the cause, and shall cause notice to be
 18 served upon the board division and upon the appellant, and
 19 also upon the adversary party, if there be any. The court
 20 may, upon the hearing, for good cause shown, permit
 21 additional evidence to be introduced, but, in the absence of
 22 such permission from the court, the cause shall be heard on
 23 the record of the board division, as certified to the court
 24 by it. The trial of the matter shall be de novo, and upon
 25 such trial the court shall determine whether or not the

1 board division regularly pursued its authority, and whether
 2 or not the findings of the board division ought to be
 3 sustained, and whether or not such findings are reasonable
 4 under all the circumstances of the case."

5 Section 48. Section 92-835, R.C.M. 1947, is amended to
 6 read as follows:

7 "92-335. Appearances--setting aside conclusions,
 8 orders, etc., of board division--judgment and findings. The
 9 board division and each party to the action or proceeding
 10 before the board division shall have the right to appear in
 11 the proceeding, and it shall be the duty of the board
 12 division to so appear. If the court ~~shall-find~~ finds from
 13 ~~such~~ the trial, as aforesaid, that the findings and
 14 conclusions of the board division are not in accordance with
 15 either the facts or the law, or that they ought to be other
 16 or different than those made by the board division, or that
 17 any finding and conclusion, or any order, rule, or
 18 requirement of the board division is unreasonable, the court
 19 shall set aside ~~such~~ the finding, conclusion, order,
 20 judgment, decree, rule, or requirement of ~~said--board~~ the
 21 division, or shall modify or change the same as law and
 22 justice shall require, and the court shall also make and
 23 enter any finding, conclusion, order or judgment that shall
 24 be required, or shall be legal and proper in the premises."

25 Section 49. Section 92-836, R.C.M. 1947, is amended to

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1 read as follows:

2 "92-836. Appeals to supreme court. Either the ~~board~~
3 division, or the appellant, or any adversary party, if there
4 be one, may appeal to the supreme court of the state of
5 Montana from any final order, judgment, or decree of the
6 ~~said~~ district court, which ~~said~~ appeal shall be taken in
7 like manner as appeals are now taken in other civil actions
8 to the ~~said~~ supreme court, and upon such appeal the ~~said~~
9 supreme court shall make such orders in reference to a stay
10 of proceedings as it finds to be just in the premises, and
11 may stay the operation of any order, judgment, or decree of
12 ~~said~~ the district court, without requiring any bond or
13 undertaking from the applicant for such stay. When any such
14 cause is so appealed it shall have precedence upon the
15 calendar of the ~~said~~ supreme court, and shall be tried anew
16 by ~~said~~ the supreme court upon the record made in ~~said~~ the
17 district court and before ~~said--board~~ the division, and
18 judgment and decree shall be entered therein as
19 expeditiously as possible."

20 Section 50. Section 92-842, R.C.M. 1947, is amended to
21 read as follows:

22 "92-842. Annual report--copies for general
23 distribution. The ~~board~~ division shall, not later than ~~the~~
24 ~~first--day--of~~ October 1 of each year, make a report to the
25 governor covering its entire operations and proceedings for

1 the preceding fiscal year, with such suggestions or
2 recommendations as it may deem of value for public
3 information. A reasonable number of copies of such report
4 shall be printed for general distribution."

5 Section 51. Section 92-903, R.C.M. 1947, is amended to
6 read as follows;

7 "92-903. Employer permitted to carry on business and
8 settle directly with employee--renewal of application. If
9 such employer, making such election, shall be found by the
10 ~~board~~ division to have the requisite financial ability to
11 pay the compensation and benefits in this act provided for,
12 then the ~~board~~ division shall grant to ~~such~~ the employer
13 permission to carry on his ~~said~~ business for the fiscal year
14 within which such election is made, and such proof filed, or
15 the remaining portion of such fiscal year, and to make such
16 payments directly to his employees as they may become
17 entitled to receive the same. Every employer, so long as he
18 continues in his ~~said~~ employment, and so long as he
19 continues to be bound by ~~such~~ compensation plan No. 1,
20 shall, at least thirty (30) days before the expiration of
21 each fiscal year, 'renew his application to be permitted to
22 continue to make such payments as aforesaid directly to his
23 employees for the next ensuing fiscal year, and under like
24 circumstances as those mentioned for the granting of such
25 permission upon such first application, the board may renew

1 the same from year to year."

2 Section 52. Section 92-904, R.C.M. 1947, is amended to
3 read as follows:

4 "92-904. Additional proof of solvency--revocation of
5 order. The board division may at any time require from any
6 employer acting under compensation plan No. 1 additional
7 proof of solvency and financial ability to pay the
8 compensation provided by this act, and may at any time, upon
9 notice to such employer of not less than ten (10) or more
10 than twenty (20) days, after and upon a full hearing, revoke
11 any order or approval theretofore made."

12 Section 53. Section 92-905, R.C.M. 1947, is amended to
13 read as follows:

14 "92-905. Requiring security of employer. If ~~said~~
15 ~~industrial-accident-board--shall--find~~ the division finds
16 that such an employer ~~has~~ does not have the financial
17 responsibility for the payment of the compensation herein
18 provided to be paid, which might reasonably be expected to
19 be chargeable to such the employer during the fiscal year to
20 be covered by such the permission, ~~said-industrial--accident~~
21 ~~board--must--so-find,-and~~ the division must require such the
22 employer, before granting to him such permission, or before
23 continuing or engaging in such employment, subject to the
24 provisions of compensation plan No. 1, to give security for
25 such payment, which security must be in such an amount as

1 ~~said--board--shall--find~~ the division finds is reasonable and
2 necessary to meet all liabilities of such the employer,
3 which may reasonably and ordinarily be expected to accrue
4 during such the fiscal year. ~~Said~~ The security must be
5 deposited with the ~~treasurer-of-the-board~~ division, and may
6 be a certain estimated ~~per--centum~~ percent of ~~said the~~
7 employer's last preceding annual payroll, or a certain ~~per~~
8 ~~centum percent~~ of the established amount of his annual
9 payroll for ~~said the~~ fiscal year or ~~said the~~ security may be
10 in the form of a bond or undertaking executed to ~~said~~
11 ~~industrial-accident-board~~ the division in the amount to be
12 fixed by it with two (2) or more sufficient sureties, which
13 undertaking must be conditioned that such the employer will
14 well and truly pay, or cause to be paid, all such sums and
15 amounts for which the employer shall become liable under the
16 terms of this act to his employees during ~~said the~~ fiscal
17 year; or such security may consist of any state, county,
18 municipal, or school district bonds, or the bonds or
19 evidence of indebtedness of any individuals or corporations
20 which the ~~board-may-deem~~ division deems solvent; and every
21 such deposit and the character and amount of such securities
22 shall at all times be subject to approval, revision, or
23 change by the ~~board~~ division as in its judgment may be
24 required, and upon proof of the final payment of the
25 liability for which such securities are given, such

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1 securities, or any remaining part thereof, shall be returned
 2 to the depositor. The ~~treasurer--of--the--board--and--his~~
 3 ~~bondsmen--shall--be~~ division is liable for the value and
 4 safekeeping of all such deposits or securities, and shall,
 5 at any time, upon demand of ~~the~~ a bondsmen or the depositor
 6 ~~or--the--board,~~ account for the same, and the earnings
 7 thereof."

8 Section 54. Section 92-906, R.C.M. 1947, is amended to
 9 read as follows:

10 "92-906. Failure of employer to pay compensation--duty
 11 of ~~board~~ division. Upon the failure of ~~said~~ the employer to
 12 pay any compensation provided for in this act, upon the
 13 terms and in the amounts and at the times when the same
 14 ~~shall~~ become due and payable, ~~it~~ the division shall ~~be--the~~
 15 ~~duty--of--such--state--accident--board,~~ upon demand of the person
 16 to whom compensation is due, ~~to~~ apply any deposits made with
 17 the ~~board~~ division to the payment of the same, and ~~it~~ the
 18 division shall ~~be--its--duty--to~~ take the proper steps to
 19 convert any securities on deposit with the ~~said--board~~
 20 division, or sufficient thereof, into cash and to pay the
 21 same upon the liabilities of ~~said~~ the employer, accruing
 22 under the terms of this act, and ~~it--shall--be--its--duty--in--so~~
 23 ~~far--as--the--same--shall--be~~ the division shall when necessary,
 24 ~~to~~ collect and enforce the collection of the liability of
 25 all sureties upon any bonus which may be given by the ~~said~~

1 employer to insure the payment of his ~~said~~ liability. And
 2 to these ends, and for these purposes, the ~~board~~ division
 3 shall be deemed to be the owner of ~~said~~ the deposit and
 4 security and the obligee in ~~said~~ the bond in trust for the
 5 ~~said~~ purposes, and may proceed in its own name to recover
 6 upon ~~such~~ the bonds, or foreclose and liquidate ~~said~~ the
 7 securities."

8 Section 55. Section 92-907, R.C.M. 1947, is amended to
 9 read as follows:

10 "92-907. When employer to make deposit or security to
 11 guarantee payment of compensation. Within thirty (30) days
 12 after the happening of an accident where death or the nature
 13 of the injury renders the amount of future payments certain,
 14 or reasonably certain, the employer shall make a deposit or
 15 give security as herein defined with the ~~treasurer--of--the~~
 16 ~~board~~ division for the protection and guaranty of the
 17 payment of such liability, in such sum as the ~~board~~ division
 18 may direct, ~~provided--however--that~~ However, if sufficient
 19 securities are already on deposit with the ~~said--board~~
 20 division, or if the ~~said--board--shall--have--determined~~
 21 division determines that the employer has sufficient
 22 financial responsibility to meet ~~said~~ the liability of the
 23 ~~said~~ the employer, together with other liabilities already
 24 accrued, no such additional deposit or security shall be
 25 demanded."

1 Section 56. Section 92-908, R.C.M. 1947, is amended to
2 read as follows:

3 "92-908. When employer may be relieved from liability.
4 Any employer against whom liability may exist for
5 compensation under this act, may, with the approval of the
6 board division, be relieved therefrom by:

7 (1) Depositing the present value or the estimated
8 present value of the total unpaid compensation for which
9 such liability exists, assuming interest at five ~~per-centum~~
10 percent per annum, with the ~~treasurer-of-the-board~~ division;
11 or,

12 (2) Purchasing an annuity within the limitations
13 provided by law, in any insurance company granting
14 annuities, and authorized to transact business in this
15 state, subject to the approval of the board division."

16 Section 57. Section 92-1002, R.C.M. 1947, is amended
17 to read as follows:

18 "92-1002. Duty of employer electing plan No.
19 2--amount of insurance necessary. Any employer electing to
20 become bound by compensation plan No. 2 shall make his
21 election on the form and in the manner prescribed by the
22 board division. Such election shall be accompanied by a
23 certificate issued by the insurer on the form prescribed by
24 the board division, which shall state the effective date of
25 the policy insuring the employer, its expiration date and

1 such other information as may be required by the board
2 division to inform the board division of the adequacy of the
3 insurance."

4 Section 58. Section 92-1004, R.C.M. 1947, is amended
5 to read as follows:

6 "92-1004. Agreement to be contained in policies of
7 insurance--deposit of bonds. No such policy shall be issued
8 unless it contains the agreement of the insurer that it will
9 promptly pay to the person entitled to compensation all the
10 installments of compensation or other payments in this act
11 provided for, and that the obligation shall not be affected
12 by any default of the insured after the injury, or by any
13 default in the giving of any notice required by such policy
14 or by this act or otherwise. Such agreement shall be
15 construed to be a direct promise by the insured to the
16 person entitled to compensation. Before issuance of any
17 policy by an insurer as herein authorized, such insurer must
18 deposit with the ~~treasurer-of-the-industrial-accident--board~~
19 division, bonds of the United States or the state of
20 Montana, or of any school district, county, city or town in
21 the state of Montana, or a corporate surety bond made out to
22 and approved by the board division, in an amount not less
23 than five thousand dollars (\$5,000.00) or more than one
24 hundred thousand dollars (\$100,000), as the ~~industrial~~
25 ~~accident-board~~ division may determine. If any insurer shall

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1 ~~fail~~ fails to discharge any liability after the amount
 2 thereof shall be determined by the board division, and
 3 within the time limited by the division, boardy-it-shall-be
 4 ~~the-duty-of-the-board-to~~ the division shall convert ~~said~~
 5 the bonds, or such part thereof as is necessary, into cash,
 6 and from the proceeds liquidate such liability; and
 7 thereafter ~~said~~ the insurer must make an additional deposit
 8 to meet any deficiency caused thereby. It is intended hereby
 9 to give the ~~industrial--accident--~~ board division the
 10 discretion in the matter of whether an insurer has failed to
 11 discharge any liability."

12 Section 59. Section 92-1005, R.C.M. 1947, is amended
 13 to read as follows:

14 "92-1005. (2982) Policies made subject to this
 15 act--assessment of insurers. (1) Every policy for the
 16 insurance of the compensation herein provided for, or
 17 against liability therefor, shall be deemed to be made
 18 subject to the provisions of this act. No insurer shall
 19 enter into any such policy of insurance unless its forms
 20 ~~shall~~ have been approved by the board division, and as
 21 otherwise provided by law.

22 (2) On or before ~~the-first-day-of~~ July 1 of each year,
 23 the board division shall assess and each insurer shall pay
 24 to the board division not to exceed three and one-fourths
 25 per cent (3 1/4%) of its gross annual direct premiums

1 collected in Montana on policies of insurance insuring
 2 employers who elected to become bound by ~~the~~ compensation
 3 plan No. 2 during the previous calendar year, less return
 4 premiums. No such assessment shall be less than two hundred
 5 dollars (\$200). The ~~treasurer-of-the-board~~ division shall
 6 pay the amounts so collected into the state treasury.
 7 Payments by ~~such~~ the insurers under this section shall be
 8 considered as items of loss for rate-making purposes."

9 Section 60. Section 92-1006, R.C.M. 1947, is amended
 10 to read as follows:

11 "92-1006. Renewals. Every certificate of renewal of
 12 such policy shall be made and delivered to ~~said-board~~ the
 13 division at least thirty (30) days prior to the expiration
 14 of the expiring policy."

15 Section 61. Section 92-1007, R.C.M. 1947, is amended
 16 to read as follows:

17 "92-1007. Deposits by insurer with board division.
 18 Within thirty (30) days of the happening of an accident
 19 where death or the nature of the injury renders the amount
 20 of future payments certain or reasonably certain, the
 21 insurer shall make a deposit, as herein defined, with the
 22 ~~treasurer--of--the--board~~ division for the protection and
 23 guarantee of the payment of such liability in such sum as
 24 the board division may direct, ~~provided-that~~ However, if
 25 the board division deems the amount on deposit by ~~said~~ the

insurer under the provisions of section 92-1004 sufficient to cover all liabilities of the insurer, then no further deposit shall be required."

Section 62. Section 92-1008, R.C.M. 1947, is amended to read as follows:

"92-1008. How insurer relieved from liability. Any insurer against whom liability may exist for compensation under this act, may, with the approval of the board division, be relieved therefrom by:

(1) Depositing the present value or the estimated present value of the total unpaid compensation for which such liability exists, assuming interest at five per-centum percent per annum, with the treasurer-of-the-board division; or,

(2) By purchasing an annuity within the limitations provided by law in any insurance company granting annuities, and authorized to transact business in this state, subject to the approval of the board division."

Section 63. Section 92-1009, R.C.M. 1947, is amended to read as follows:

"92-1009. Cancellation of insurance policy. No policy of insurance issued under the provisions of compensation plan No. 2 shall be canceled within the time limited for its expiration except upon thirty (30) days' notice to the employer in favor of whom such policy is issued, and to the

board division, unless such policy sought to be canceled shall have been sooner replaced by other insurance."

Section 64. Section 92-1010, R.C.M. 1947, is amended to read as follows:

"92-1010. Report of insurance companies to board division. Every insurance company transacting business under this act shall, at the time and in the manner prescribed by the board division, make and file with the board division such reports of accidents as the board division may require."

Section 65. Section 92-1101, R.C.M. 1947, is amended to read as follows:

"92-1101. What necessary in electing plan No. 3--percentage of payroll to be paid under plan. COMPENSATION PLAN NUMBER THREE

Every employer subject to the provisions of compensation plan No. 3 shall at the times and in the manner prescribed by the industrial-accident-board division, pay to the industrial-accident-board division a premium based on a percentage of his payroll as determined by the industrial accident--board division which shall be a member of a rating organization in accordance with the provisions of this act."

Section 66. Section 92-1102, R.C.M. 1947, is amended to read as follows:

"92-1102. Permitting employers to elect to comply and

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come under the provisions of this act. An employer shall comply with the provisions of this act, in which event he will not be liable to respond in damages at common law or by statute for injury or death of an employee and shall enjoy the benefits and privileges of this act. The employee of the employer is considered to come under the provisions of this act unless the employee executes and files with the division on proper forms to be furnished for that purpose, a specific election not to be so bound, in which event he shall not enjoy the benefits or privileges of this act until the election is withdrawn."

Section 67. Section 92-1103, R.C.M. 1947, is amended to read as follows:

"92-1103. Manner of electing--contract or policy of insurance--payment of premium. The ~~industrial-accident-board~~ division shall prescribe the procedure by which employers may elect to be bound by compensation plan No. 3, the effective time of such election and the manner in which such election is terminated for reasons other than default in payment of premiums. Every employer electing to be bound by compensation plan No. 3 shall receive from the ~~industrial-accident-board~~ division a contract or policy of insurance in a form approved by the board division. The premium thereon shall be paid by the employer, to the ~~industrial-accident~~ board division at such times as the board division shall

prescribe and shall be paid over by the board division to the state treasurer to the credit of the industrial insurance account in the agency fund."

Section 68. Section 92-1104, R.C.M. 1947, is amended to read as follows:

"92-1104. Classifications by board division. The ~~industrial--accident--board~~ division is hereby given full power and authority to determine premium rates and classifications as in its judgment and experience, and as member of a rating organization as is otherwise provided for in this code, may be necessary or expedient, provided that no change in the classification or rates prescribed shall be effective until thirty (30) days after the date of the order making such change."

Section 69. Section 92-1105, R.C.M. 1947, is amended to read as follows:

"92-1105. Intent and purpose of plan No. 3. (1) It is the intent and purpose of compensation plan No. 3 that each industry, trade, occupation or employment coming under the provisions of ~~said~~ the plan shall be liable to pay for injuries happening to employees coming under the provisions of the Workmen's Compensation Act.

(2) All premiums, penalties, recoveries by subrogation, interest earned upon money belonging to the fund, and securities acquired by or through use of money

shall be deposited in the industrial insurance account in the agency fund.

(3) The industrial insurance program shall be neither more nor less than self-supporting. Employments affected by the provisions hereof shall be divided by the board division as a member of a rating organization into classes, whose rates may be readjusted at such times as the board division as a member of such rating organization may determine. Separate accounts shall be kept of the amounts collected and expended in each class for determining rates but for payment of compensation and dividends the industrial insurance account shall be one and indivisible. The board division as a member of such rating organization shall determine the hazards of the different classes of occupations or industries and fix the premiums therefor at the lowest rate consistent with maintenance of a solvent industrial insurance fund, and the creation of surplus and reserves and for such purpose may adopt a system of schedule rating in such a manner as to take account of the peculiar hazard of each risk, and shall take advantage of the experience and information afforded to it as a member of such rating organization.

(4) The board division in fixing rates shall provide for the expenses of administering the industrial insurance account allowed by law, the disbursements on account of

injuries and deaths of employees in each class, an adequate catastrophe reserve, reserves adequate to meet anticipated and unexpected losses, and such other reserves and surplus as may be determined by the board division as a member of such rating organization."

Section 70. Section 92-1105.1, R.C.M. 1947, is amended to read as follows:

"92-1105.1. Advanced rate for dangerous places of employment. If by reason of poor or careless management, or otherwise, any place of employment ~~be~~ is unduly dangerous in comparison with other like places of employment, and the employer operating the same ~~shall~~ has not ~~have~~ complied with the safety provisions of the Montana Safety Act, and ~~such the~~ employer ~~shall-be~~ is under compensation plan number 3, the board division, in addition to any other penalty provided, shall advance the rate upon such place of employment fifty (50) per centy. ~~and-such~~ The advanced rate shall continue and be in force until ~~such the~~ place of employment ~~shall--have~~ has ceased to be unduly dangerous in comparison with other like places of employment and ~~such the~~ employer ~~shall-have~~ has obtained a certificate of the board division."

Section 71. Section 92-1108, R.C.M. 1947, is amended to read as follows:

"92-1108. In case of default, rates to be advanced

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twenty-five per cent (25%). Any employer who is in default in the observance of any order of the board division, issued pursuant to the provisions of sections 92-1101 to 92-1105, inclusive, shall, in addition to any other penalty provided by this act, be charged an advance of twenty-five ~~per-centum~~ percent (25%) over the established rate, and such advanced rate shall continue and be in force until ~~such the~~ employer ~~shall-have~~ has ceased to be in ~~such~~ default."

Section 72. Section 92-1110, R.C.M. 1947, is amended to read as follows:

"92-1110. Surplus in industrial insurance account. If at the end of any fiscal year, there exists in the industrial insurance account in the agency fund an excess of assets over liabilities, and a reasonable surplus, such liabilities to include necessary reserves, which excess may be divided safely, then the board division may declare a dividend in such manner as the rules of the board division may prescribe, to those employers who have paid premiums into the industrial insurance account in the agency fund in excess of liabilities chargeable to them in the account in the agency fund for that year. In determining the amount or proportion of ~~such the~~ balance to which ~~the~~ employer is entitled as dividends, the board division shall give consideration to the prior paid premiums and accident ~~experience of each individual employer during the dividend~~

year."

Section 73. Section 92-1112, R.C.M. 1947, is amended to read as follows:

"92-1112. Investment of reserve--payment of installments. The ~~treasurer-of-the-board~~ division shall turn over ~~such the~~ reserve to the ~~state~~ board of ~~land commissioners~~ investments to be invested and the same shall be invested by ~~said-state the~~ board of ~~land-commissioners~~ investments as part of the long term investment fund and out of the same and its earnings shall be paid the monthly installments, and any lump sum, then or thereafter arranged for, ~~provided--however--that~~ However, when there is sufficient money in the industrial insurance account in the agency fund to meet such compensation payments, any surplus remaining may be invested as specified in this section."

Section 74. Section 92-1113, R.C.M. 1947, is amended to read as follows:

"92-1113. Treasurer Division to keep accounts of segregations. The ~~treasurer-of-the-board~~ division shall keep an accurate account of all such segregations of the industrial insurance account in the agency fund, and ~~upon~~ ~~direction--of--the--board~~ shall divert from the account any sums necessary to meet monthly payments, pending the conversion into cash of any security, and in such case shall repay the same out of the cash realized from the security."

1 Section 75. Section 92-1114, R.C.M. 1947, is amended
2 to read as follows:

3 "92-1114. Collection in case of default by
4 employer--cancellation of right to operate under plan No. 3
5 for failure to pay premium. (1) If any employer under plan
6 No. 3 shall default in any payment to the ~~industrial~~
7 ~~accident--board~~ division, the sum due may be collected by an
8 action at law in the name of the state and such right of
9 action shall be cumulative. The ~~industrial--accident--board~~
10 division is hereby authorized in its discretion to cancel an
11 employer's right to operate under plan No. 3 of the
12 Workmen's Compensation Act for failure to pay the premiums
13 due, ~~provided-that-when~~ When the ~~industrial--accident--board~~
14 division makes an order canceling an employer's right for
15 failure to pay premiums it shall be the duty of the
16 ~~industrial--accident--board~~ division to make such order at
17 least thirty (30) days before the cancellation becomes
18 effective and to send a formal notice to the sheriff or
19 sheriffs of the county or counties where the employer is
20 operating, and it shall be the duty of the said sheriff or
21 sheriffs to post a notice in at least three (3) conspicuous
22 places where the workmen can readily see said notices, to
23 the effect that the ~~industrial--accident--board~~ division has
24 canceled the right of the said employer to operate under the
25 act; and said notice shall give the date of the

1 effectiveness of said order. After ~~said~~ the cancellation
2 date the ~~said~~ employer shall have the same status as an
3 employer who is not enrolled under the Workmen's
4 Compensation Act.

5 (2) When an employer's right to operate has been
6 canceled by the ~~board~~ division for failure to pay premiums
7 and when the ~~board~~ division, in its discretion finds that
8 the property and assets of ~~said~~ the employer are not
9 sufficient to pay ~~said~~ the premiums, the ~~board~~ division may
10 compromise ~~said~~ the claim for premiums and accept a payment
11 of an amount less than the total amount due."

12 Section 76. Section 92-1115, R.C.M. 1947, is amended
13 to read as follows:

14 "92-1115. Injury happening while employer is in
15 default. For any injury happening to any of his workmen
16 during default in any payment to the ~~industrial--accident~~
17 ~~board~~ division, the defaulting employer as to such injury
18 shall be considered as having elected not to come under the
19 provisions of this act, except that he shall be and remain
20 liable to pay to the ~~industrial--accident--board~~ division the
21 amount of such default, together with the penalty prescribed
22 by section 92-1108."

23 Section 77. Section 92-1117, R.C.M. 1947, is amended
24 to read as follows:

25 "92-1117. Prosecution or settlement of cause of

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1 action. Any cause of action assigned to the state under the
2 preceding section may be prosecuted or compromised by the
3 board division, in its discretion."

4 Section 78. Section 92-1118, R.C.M. 1947, is amended
5 to read as follows:

6 "92-1118. Application for compensation under plan No.

7 3. Where a workman is entitled to compensation under
8 compensation plan No. 3, he shall file with the board
9 division his application therefor, together with the
10 certificate of the physician who attended him, and it shall
11 be the duty of such physician to lend all necessary
12 assistance in making application for compensation and such
13 proof of other matters as may be required by the rules of
14 the board division without charge to the workman. provided,
15 ~~that the~~ The filing of a certificate of the attending
16 physician ~~shall~~ does not constitute a sworn claim for
17 compensation."

18 Section 79. Section 92-1119, R.C.M. 1947, is amended
19 to read as follows:

20 "92-1119. Payment of physician. For a proper
21 compliance with the provisions of the preceding section, the
22 physician, after approval by the board division, shall be
23 paid out of the ~~board's~~ division's administrative moneys in
24 the earmarked revenue fund, one and one-half dollars (\$1.50)
25 for each case."

1 Section 80. Section 92-1120, R.C.M. 1947, is amended
2 to read as follows:

3 "92-1120. Application in case of death. Where death
4 results from the injury, the parties entitled to
5 compensation under compensation plan No. 3, or someone in
6 their behalf, shall make application for the same to the
7 board division. The application must be accompanied with
8 proof of death and proof of relationship, showing the
9 parties entitled to compensation, certificate of the
10 attending physician, if any, and such other proof as may be
11 required by the rules of the board division."

12 Section 81. Section 92-1122, R.C.M. 1947, is amended
13 to read as follows:

14 "92-1122. Disbursements out of industrial accident
15 account--employer to pay warrant. Disbursements out of the
16 industrial insurance account in the agency fund shall be
17 made by the ~~treasurer of the board as the board may order~~
18 division. If at any time there ~~shall~~ is not be sufficient
19 money in the account with which to pay any warrants drawn
20 thereon, the employer, on account of whose workmen the
21 warrant was drawn, shall pay the same, and upon his next
22 contribution to such the account he shall be credited with
23 the amount so paid, with interest thereon at the rate of six
24 ~~per--centum~~ percent per annum from the date of such payment
25 to the date upon which the next assessment becomes payable;

1 and if the amount of the credit exceeds the amount of such
2 assessment, he shall have a warrant upon such account for
3 the excess, and if ~~said the~~ warrant ~~be is~~ not paid for want
4 of funds, it shall be credited to ~~such the~~ employer and be
5 applied upon succeeding assessments."

6 Section 82. Section 92-1123, R.C.M. 1947, is amended
7 to read as follows:

8 "92-1123. Earnings and interest on deposits--~~treasurer~~
9 ~~to make no profit~~. All earnings made by the industrial
10 insurance account in the agency fund by reason of interest
11 paid for the deposit thereof, or otherwise, shall be
12 credited to and become a part of ~~said the~~ account, and the
13 making of profit, either directly or indirectly, by ~~the~~
14 ~~treasurer--of-the-board--or~~ any other person, out of the use
15 of the account shall constitute a felony, and on conviction
16 thereof shall subject the person making such profit to
17 imprisonment in the state penitentiary for a term not
18 exceeding two years, or a fine not exceeding five thousand
19 dollars (\$5,000.00), or both such fine and imprisonment, ~~and~~
20 ~~the treasurer of the board shall be liable upon his official~~
21 ~~bond for all profits realized for any unlawful use of the~~
22 ~~account.~~"

23 Section 83. Section 92-1401, R.C.M. 1947, is amended
24 to read as follows:

25 "92-1401. Reference to vocational rehabilitation

1 ~~division~~ of injured workmen. The ~~industrial-accident-board~~
2 ~~of-the-state-of-Montana~~ division of workmen's compensation
3 shall refer to the ~~vocational-rehabilitation-division-of-the~~
4 ~~board--of--education--of--the-state-of-Montana~~ department of
5 social and rehabilitation services workmen who have become
6 permanently disabled as the result of injuries sustained
7 within the scope and course of employment by an employer
8 enrolled under the Workmen's Compensation Act of the state
9 of Montana and who in the opinion of ~~said-board~~ the division
10 can be vocationally rehabilitated, ~~-and--said--vocational~~
11 ~~rehabilitation--division~~ The department of social and
12 rehabilitation services shall provide for the vocational
13 rehabilitation of ~~such the~~ injured workmen under the
14 provisions of Title 41, Chapter 8, ~~Revised-Codes-of-Montana~~
15 R.C.M. 1947 and amendments thereto."

16 Section 84. Section 92-1402, R.C.M. 1947, is amended
17 to read as follows:

18 "92-1402. Certification of determination to ~~industrial~~
19 ~~accident--board~~ division--review of award. When ~~said~~
20 ~~vocational-rehabilitation-division~~ the department of social
21 and rehabilitation services has provided all feasible
22 vocational rehabilitation to ~~such~~ an injured workman, or has
23 determined that vocational rehabilitation is not possible or
24 feasible, it shall certify its determination to ~~said~~
25 ~~industrial--accident--board~~ the division, at which time ~~said~~

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board the division shall reconsider and review any previous award of compensation to ~~such~~ the injured workman which is then in effect."

Section 85. Section 92-1406, R.C.M. 1947, is amended to read as follows:

"92-1406. Industrial accident rehabilitation account.

(1) The payments provided in section 92-1403 shall be made from the industrial accident rehabilitation account in the agency fund. Payments to ~~such~~ the account shall be made on or before ~~the-first-day-of~~ July 1 of each year as follows:

(1) (a) By each employer operating under the provisions of plan one of the Workmen's Compensation Act, an amount to be assessed by the ~~industrial-accident-board~~ division, not exceeding one per cent (1%) of the compensation paid to the employer's injured employees in Montana for the preceding fiscal year.

(2) (b) By each insurer insuring employers under the provisions of plan two of the Workmen's Compensation Act an amount to be assessed by the ~~industrial-accident-board~~ division, not exceeding one per cent (1%) of the compensation paid to injured employees of its insured in Montana during the preceding fiscal year.

(3) (c) By the ~~industrial-accident-board~~ division an amount to be determined by the ~~industrial-accident-board~~ division, not exceeding one per cent (1%) of the

compensation paid to injured employees in Montana from the industrial insurance account in the agency fund and the occupational disease account in the agency fund for the preceding fiscal year.

(2) Separate accounts of the amounts collected and disbursements made from the industrial accident rehabilitation account in the agency fund shall be kept for each of the plans. If in any fiscal year, the amount collected from the employers under any plan exceeds the amount of payments for employees of the employers under such plan, the assessment against the employers under such plan for the following year shall be reduced.

(3) The payments herein provided for shall be made to the ~~industrial-accident-board~~ division which shall credit the sums paid to the ~~said~~ industrial accident rehabilitation account which shall be in the custody of the state treasurer. Disbursements from the ~~said~~ account shall be made after approval by the ~~division-of-vocational-rehabilitation~~ department of social and rehabilitation services and upon audit and approval by the ~~state-controller-and-purchasing~~ agent department of administration.

(4) No part of the funds allocated or contributed as herein provided and contemplated shall be used in payment of administrative expenses of the ~~industrial-accident-board~~ division or ~~vocational-rehabilitation-division~~ department of

1 social and rehabilitation services."

2 Section 86. Sections 92-104, 92-105, 92-108 through
3 92-110, 92-112 through 92-115, 92-414, 92-415, 92-419,
4 92-420, 92-427, 92-428, 92-430, 92-431, 92-611, 92-612,
5 92-641, 92-643, 92-1404, R.C.M. 1947 are repealed.

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temporary disability is considered. The following persons also spoke in favor of the bill: Lonney Mayer, Retail Clerks Union; Wallace Edland, Mt School Board Association; George Hammond, American Federation of State, County & Municipal Employees, AFL-CIO; Jan Gerke, Helena Women's Political Caucus; and Michael Pichette, Mt Democratic Party.

Wally Clardy, from the Gibbons Company, Unemployment Tax Control, did not support nor oppose the bill, but wanted to point out some problems the bill might impose on employers. He stated that the average leave taken by an employee is between 5 and 6 months, and the employer must then hire another person to fill the vacated position. He said this would cause the employers unemployment tax rate to increase considerably by terminating the temporary help. Chad Smith, representing Unemployment Compensation Advisors, said that this bill would be hurting one group of people to protect the rights of another, and submitted an amendment which would add an additional section as follows: "Section 7. Any unemployment benefits paid to any person by application of this act shall not be charged against any employer under the unemployment compensation law."

Rep. Johnson asked approximately how much this bill would effect an employees tax rate. Mr. Clardy replied that he didn't know, but that the average tax rate of 1.5% would cost about \$1,725. Chairman Kimble asked if Diane Rotering wanted to specify a time limit to file for administrative action. She said that she would favor a reasonable limit.

HB # 22--SPONSOR: William Baeth, introduced Norm Grosfield, Acting Administrator, WCD, who said that this bill was a housekeeping bill, mainly to change and simplify the language, and to change prior legislations now obsolete. He said that none of the changes were substantial, and that eventually, it would all be recodified for clarity.

Ernie Post, MT AFL-CIO Association, said that he saw nothing wrong with the bill as is, but would like to offer an amendment that would change language to include both sexes. Mr. Grosfield said he would draft the amendments to include this. Chad Smith, representing the American Mutual Insurance Alliances, requested an amendment be made on p. 32, line 21, to include the number of members to act on an appeal.

No further testimonies, the committee went into executive discussion.

HB # 11--Rep. Baeth moved that HB # 11 DO PASS, seconded by Rep. Ellis. Motion carried with all in favor except Rep. Ellerd Opposed.

HB # 9--Chairman Kimble requested that all amendments on the bill be postponed for a latter date so that technical drafting could be done.

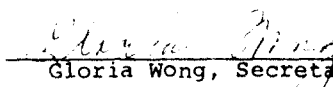
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HB # 22--Chairman Kimble requested that action on the bill be postponed for a later date so that technical drafting could be done.

There being no further business, the meeting was adjourned at 12 noon to reconvene Friday, January 17.



GARY N. KIMBLE, Chairman



Gloria Wong, Secretary

AMENDMENTS TO HOUSE BILL NO. 22

On page 1 add on line 6 after the word "SECTIONS" the following section numbers:
"82A-1004, 92-101":

On page 4 delete on line 4 the word "Workmen's" and insert in lieu thereof the word
"Workers";

On page 5 delete on line 19 the word "workmen's" and insert in lieu thereof the word
"workers";

On page 11 delete on line 20 the word "workman" and insert in lieu thereof the word
"worker";

On page 11 delete on line 24 the word "workman" and insert in lieu thereof the word
"worker";

On page 12 delete on line 1 the word "workman" and insert in lieu thereof the word
"worker";

On page 12 delete on line 5 the word "Workmen's" and insert in lieu thereof the word
"Workers";

On page 12 delete on line 8 the word "Workmen's" and insert in lieu thereof the word
"Workers";

On page 12 delete on line 10 the word "workmen" and insert in lieu thereof the word
"worker";

On page 12 delete on line 13 the word "workmen's" and insert in lieu thereof the word
"workers";

On page 12 delete on line 15 the word "Workmen's" and insert in lieu thereof the word
"Workers";

On page 12 delete on line 18 the word "Workmen's" and insert in lieu thereof the word
"Workers";

On page 12 delete on line 22 the word "workmen's" and insert in lieu thereof the word
"workers";

On page 12 delete on line 25 the word "workmen's" and insert in lieu thereof the word
"workers";

On page 14 delete on line 5 the word "workman" and insert in lieu thereof the word
"worker";

On page 14 delete on line 5 the word "his" and insert in lieu thereof the words "the
worker's";

On page 15 delete on line 17 the word "workmen" and insert in lieu thereof the word
"worker";

On page 15 delete on line 20 the word "workmen" and insert in lieu thereof the word "worker";

On page 22 delete on line 4 the word "Workmen's" and insert in lieu thereof the word "Workers";

On page 23 delete on line 11 the word "Workmen's" and insert in lieu thereof the word "Workers";

On page 33 add on line 1 before the word "division" the words "administrator of the";

On page 48 delete on line 22 the word "Workmen's" and insert in lieu thereof the word "Workers";

On page 53 delete on line 12 the word "Workmen's" and insert in lieu thereof the word "Workers";

On page 53 delete on line 22 the word "workmen" and insert in lieu thereof the word "worker";

On page 54 delete on line 3 the word "Workmen's" and insert in lieu thereof the word "Workers";

On page 54 delete on line 15 the words "his workmen" and insert in lieu thereof the words "the employer's workers";

On page 55 delete on line 7 the word "workman" and insert in lieu thereof the word "worker";

On page 55 delete on line 8 the word "he" and insert in lieu thereof the words "the worker";

On page 55 delete on line 9 the word "his" and insert in lieu thereof the word "an";

On page 56 delete on line 20 the word "workmen" and insert in lieu thereof the word "worker";

On page 58 delete on line 1 the word "workmen" and insert in lieu thereof the word "worker";

On page 58 delete on line 2 the word "workmen's" and insert in lieu thereof the word "workers";

On page 58 delete on line 5 the word "workmen" and insert in lieu thereof the word "workers";

On page 58 delete on line 8 the word "Workmen's" and insert in lieu thereof the word "Workers";

On page 58 delete on line 13 the word "workmen" and insert in lieu thereof the word "worker";

On page 58 delete on line 22 the word "workman" and insert in lieu thereof the word "worker";

On page 59 delete on line 2 the word "workman" and insert in lieu thereof the word "worker";

On page 59 delete on line 12 the word "Workmen's" and insert in lieu thereof the word "Workers";

On page 60 delete on line 16 the word "Workmen's" and insert in lieu thereof the word "Workers";

On page 61 add between lines 1 and 2 the following material:

"Section 86. Section 92-101, R.C.M.1947, is amended to read as follows:

"92-101. Name of act--what each part to contain. This act shall be known and may be cited as the Workmen's Compensation Act or the Workers' Compensation Act. Part I (sections 92-101 to 92-843) shall contain those sections which have a general application to the whole of the act, and may be referred to as the "general provisions"; part II (sections 92-901 to 92-908) shall contain those sections which refer to compensation plan number one; part III (sections 92-1001 to 92-1012) shall contain those sections which refer to compensation plan number two; part IV (sections 1101 to 92-1123) shall contain those sections which refer to compensation plan number three.

Section 87. Section 82A-1004, R.C.M.1947, is amended to read as follows:

82A-1004. Division of ~~workmen's~~ workers' compensation--creation--head. (1)
There is created a division of ~~workmen's~~ workers' compensation within the department. The division head is an administrator appointed by the governor as are directors in accordance with section 82A-106 of this act. Any reference in the Revised Codes of Montana 1947 to the industrial accident board or the division of workmen's compensation means the division of workers' compensation.

(2) The division is allocated to the department for administrative purposes only as prescribed in section 82A-108 of this act. However, the division may hire its own personnel, and section 82A-108(2)(d) does not apply.

On page 61 delete on line 2 the number "86" and insert in lieu thereof the number "88".

modify coverage for cooperative officers. Mr. Grosfield said that pages 3-6 were amended to remove the subrogation clause, and placed it in a new section on pages 7 and 8. Starting on page 9 is the core of the bill. This states that the uninsured worker will be paid the same as an insured worker. He presented witness statement I explaining the bill. They are asking the legislature for \$500,000 as a starting fund, and depending on the load, may be able to pay it back in the future or they may have to request more. Ernie Post, AFL-CIO, said that their firm supported the bill as per WS II. Mr. Grosfield submitted housekeeping amendments to the bill. There was no opposition to the bill.

Rep. Sivertsen asked if a rampage of suits against the employer would stem from this, and Mr. Grosfield said that the employee would have no legal strength. Mr. Grosfield stated that the fund could also contest an employee who claims an injury that may have happened while not at work. It would not change this concept. He said that farmers would also be effected. Rep. Babcock asked how many states had this and Mr. Grosfield said that 9 states have this type of provision, but only 3 states have a fund set up.

No further witnesses, the committee went into executive discussion.

HB #78--Rep. Kimble suggested that this bill be held in committee for further study.

HB #22--REP. BAETH MOVED THAT THE AMENDMENTS TO HB 22 DO PASS, SECONDED BY REP. FEDERICO. MOTION CARRIED UNANIMOUSLY.

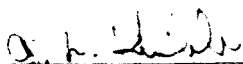
REP. FEDERICO MOVED THAT HB 22 AS AMENDED DO PASS, SECONDED BY REP. BAETH. MOTION CARRIED UNANIMOUSLY.

HB #64--Rep. Federico felt that in the duration of time, there would be problems in the wage and classification scale. Rep. Kimble said this could be worked out since the effective date was not until July 1, and that the problem would be assumed in Appropriations.

REP. JOHNSON MOVED HB 64 DO PASS, SECONDED BY REP. KELLY. Rep. Johnson said that this bill should stand on its own merits, which should point to those employees that would benefit.

A SUBSTITUTE MOTION WAS MADE BY REP. BABCOCK TO DEFER ACTION UNTIL FRIDAY, SECONDED BY REP. FEDERICO. Rep. Johnson stated that this bill should act as a forerunner for figuring the wage-classification scale. Rep. Federico requested that a representative from that division be available for questioning. MOTION CARRIED WITH ALL IN FAVOR EXCEPT FOR BAETH, GUTHRIE, KELLY, GILLIGAN, TRAVIS AND MAGONE OPPOSED.

No further business the meeting was adjourned to reconvene January 24, 1975 at 10:30 a.m.


GARY N. KIMBLE, Chairman


Gloria Wong, Secretary

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MINUTES OF THE MEETING
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
MONTANA STATE SENATE

February 10, 1975

The tenth meeting of the Labor and Employment Relations Committee was called to order by Chairman Lee on the above date in Room 402 of the State Capitol Building at 9:30 a.m.

ROLL CALL: All members present.

CONSIDERATION OF HOUSE BILL 22: An act for the codification and general revision of the laws relating to the Workmen's Compensation Act.

Representative Baeth appeared before the committee to introduce this bill and turned to Norman Grosfield for testimony.

Norman Grosfield, of the Division of Workmen's Compensation, appeared in support of this bill. This bill doesn't really do anything but comply with the Workmen's Compensation Act. It simply takes out archaic language, such as references to major and minor dependents. It also replaces archaic sections no longer applicable. It removes sections that are provided for in other areas of the law. The publication on Workmen's Compensation was written in 1915 and has been amended and amended until it is hard to even follow. We are going to try and clean this up and republish a new booklet on Workmen's Compensation. This will also change the word Workmen's to Workers Compensation.

Discussion was then held by the committee.

CONSIDERATION OF HOUSE BILL 167: An act to prohibit the employment of professional strikebreakers in a labor dispute and to limit the right to recruit employees to replace employees involved in a labor dispute.

Representative Lynch appeared before the committee to introduce this bill. This legislation will stop strikebreakers from coming into Montana. It is only humane to have this bill for those contract laborers and men in industries. This bill can be termed as the "shortening strike bill" because that is what it would do, by stopping strikebreakers from interfering in labor disputes. This is not a unique type of legislation because 14 other states have this same law. This is a good bill and was received overwhelmingly in the House.

Jim Murry, Executive Secretary of the AFL-CIO, appeared in support of this bill. A number of states and cities in the nation have this type of preventive measure. No working person with any degree of sense likes a strike. Employees only have two options when their is an injustice, strike, or work without a contact. Montana is one of the most unionized states in the nation. It is not right that strikebreakers can move in and make life rough on a laborer who is only asking for his rights. Strikebreakers come in and take the pay belonging to workers in Montana and do not have to pay anything back to the state of Montana. No one wants a strike and certainly no one wants a long strike. Strikebreakers leave behind no taxes and nothing to better the community.

Senator Norman asked if the Lee Chain had to pay corporate lisencing tax. Mr. Huss replied that any corporation that transacted business should pay, but was not definitely sure.

Mr. George D. Remington, Publisher of the Independent Record, was unable to appear before the committee on this bill, but provided the committee with written testimony. (See attached.)

DISPOSITION OF HOUSE BILL NO. 22: Senator Norman moved that HB 22 BE CONCURRED IN. Motion carried unanimously with Senator Etchart excused.

Committee decided to hold off action on SB 50, HB 78 and HB 167 until they could further study the bills.

ADJOURN:

There being no further business, the meeting was adjourned at 10:40 a.m.



Robert E. Lee, Chairman

STANDING COMMITTEE REPORT

February 10, 19 75

MR. PRESIDENT

We, your committee on Labor and Employment Relations

having had under consideration House Bill No. 22

Respectfully report as follows: That House Bill No. 22

~~DO NOT~~
BE CONCURRED IN

HOUSE BILL NO. 22

INTRODUCED BY W. BAETH

A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE CODIFICATION AND GENERAL REVISION OF THE LAWS RELATING TO THE WORKMEN'S COMPENSATION ACT; AMENDING SECTIONS 82A-1004, 92-101, 92-111, 92-117, 92-118, 92-119, 92-120, 92-206, 92-426, 92-429, 92-432, 92-502, 92-506, 92-507, 92-508, 92-607, 92-608, 92-609, 92-614, 92-707, 92-715, 92-804, 92-806, 92-808, 92-809, 92-812, 92-813, 92-814, 92-814.1, 92-815, 92-816, 92-817, 92-818, 92-819, 92-820, 92-821, 92-822, 92-823, 92-824, 92-824.1, 92-825, 92-826, 92-827, 92-828, 92-829, 92-830, 92-831, 92-832, 92-834, 92-835, 92-836, 92-842, 92-903, 92-904, 92-905, 92-906, 92-907, 92-908, 92-1002, 92-1004, 92-1005, 92-1006, 92-1007, 92-1008, 92-1009, 92-1010, 92-1101, 92-1102, 92-1103, 92-1104, 92-1105, 92-1105.1, 92-1108, 92-1110, 92-1112, 92-1113, 92-1114, 92-1115, 92-1117, 92-1118, 92-1119, 92-1120, 92-1122, 92-1123, 92-1401, 92-1402, 92-1406, R.C.M. 1947, AND REPEALING SECTIONS 92-104, 92-105, 92-108 THROUGH 92-110, 92-112 THROUGH 92-115, 92-414, 92-415, 92-419, 92-420, 92-427, 92-428, 92-430, 92-431, 92-611, 92-612, 92-841, 92-843, 92-1404, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

REFERENCE BILL

Section 1. Section 92-111, R.C.M. 1947, is amended to read as follows:

"92-111. Office and furnishings--quarters. The ~~board~~ division shall keep its principal office in the capital of the state. It may rent or lease quarters for the conduct of its administrative duties."

Section 2. Section 92-117, R.C.M. 1947, is amended to read as follows:

"92-117. Blank forms, minutes and records. The ~~board~~ division shall cause to be printed such blank forms as it shall deem requisite to facilitate or promote the efficient administration of this act. It shall provide a book in which shall be entered the minutes of all its proceedings, a book of record in which shall be recorded all awards made by the ~~board~~ division, and such other books or records as it shall deem requisite for the purpose and efficient administration of this act. All such records are to be kept in the office of the ~~board~~ division."

Section 3. Section 92-118, R.C.M. 1947, is amended to read as follows:

"92-118. Reports and bulletins which may be published. The ~~board~~ division shall have the power and authority to publish and distribute at its discretion from time to time, in addition to its report required by section 2 [82-4002] of this act, such further reports and bulletins covering its

operations, proceedings, and matters relative to its work as it may deem advisable."

Section 4. Section 92-119, R.C.M. 1947, is amended to read as follows:

"92-119. Fees of board division. The board division shall have power and authority to charge and collect the following fees:

1- (1) For copies of papers and records not required to be certified or otherwise authenticated by the board division, fifteen cents (15¢) for each folio; for certified copies of official documents and orders filed in its office, or of the evidence taken at any hearing, twenty cents (20¢) for each folio.

2- (2) To fix and collect reasonable charges for publications issued under its authority.

3- (3) The fees charged and collected under this section shall be paid monthly into the treasury of the state, to the credit of the earmarked revenue fund, and shall be accompanied by detailed statement thereof."

Section 5. Section 92-120, R.C.M. 1947, is amended to read as follows:

"92-120. Attorney general legal adviser of board division. (1) The attorney general shall be the legal adviser of the board division, and shall represent it in all proceedings whenever so requested by the board division or

any member thereof.

(2) ~~And it is further provided that the board~~ The division may, in the investigation and defense of cases under plan three of the ~~Workmen's~~ WORKERS' Compensation Act, employ such other attorney or legal adviser, as it deems necessary, and pay for the same out of the industrial insurance account in the agency fund."

Section 6. Section 92-206, R.C.M. 1947, is amended to read as follows:

"92-206. Compensation plan No. 3 exclusive, etc., when a public corporation is the employer. Where a public corporation is the employer, the terms, conditions, and provisions of compensation plan No. 3 shall be exclusive, compulsory, and obligatory upon both employer and employee. Any sums necessary to be paid under the provisions of this act by any public corporation shall be considered to be ordinary and necessary expense of such corporation, and the governing body of such public corporation shall make appropriation of and pay such sums, into the accident or administration fund, as the case may be, at the time and in the manner provided for in this act, notwithstanding that such governing body may have failed to anticipate such ordinary and necessary expense in any budget, estimate of expenses, appropriations, ordinances, or otherwise. Whenever a contractor is engaged as an employer in the

performance of contract work for a public corporation, such employer must elect to be bound by the terms, conditions and provisions of either compensation plan No. 2 or compensation plan No. 3, and the terms, conditions and provisions of the plan chosen shall be compulsory and obligatory upon both employer and employee. Whenever any public corporation neglects or refuses to file with the ~~industrial-accident-board~~ division monthly payroll report of its employees, the ~~board-is-hereby-authorized-and--empowered~~ to division may levy an arbitrary assessment upon such public corporation in an amount of twenty-five dollars for each such assessment, which assessments shall be collected in the manner provided in this act for the collection of assessments."

Section 7. Section 92-426, R.C.M. 1947, is amended to read as follows:

"92-426. ~~Board-defined. "Board"-means--the--industrial-accident--board--of-the-state-of-Montana."~~ Division defined. "Division" means the division of workmen's WORKERS' compensation of the department of labor and industry provided for in section 82A-1004, R.C.M. 1947."

Section 8. Section 92-429, R.C.M. 1947, is amended to read as follows:

"92-429. Order defined. "Order" ~~shall-mean-and-include~~ means any decision, rule, regulation, direction,

requirement, or standard of the board division, or any other determination arrived at or decision made by ~~such-board,-the~~ division ~~excepting--general--or--local--orders--as--herein~~ specified."

Section 9. Section 92-432, R.C.M. 1947, is amended to read as follows:

"92-432. Payroll defined--estimate to establish payroll. "Payroll," "annual payroll" or "annual payroll for the preceding year," means the average annual payroll of the employer for the preceding calendar year, or, if the employer shall not have operated a sufficient or any length of time during such calendar year, twelve times the average monthly payroll for the current year; provided, that an estimate may be made by the board division for any employer starting in business where no average payrolls are available, such estimate to be adjusted by additional payment by the employer or refund by the board division, as the case may actually be on December 31st of such current year."

Section 10. Section 92-502, R.C.M. 1947, is amended to read as follows:

"92-502. When compensation to beneficiaries, ~~major--or~~ minor--dependents or widow ceases. If any beneficiaries ~~or~~ major-or-minor-dependents of a deceased employee die, or if the widow or widower remarry, the right of such beneficiary

1 ~~or-major-or-minor-dependent~~ or such widow or widower to
2 compensation under this act shall cease."

3 Section 11. Section 92-506, R.C.M. 1947, is amended to
4 read as follows:

5 "92-506. No compensation to nonresident beneficiaries
6 until when. Before payment of compensation to a beneficiary
7 not residing within the United States, satisfactory proof of
8 such relationship as to constitute a beneficiary under this
9 act shall be furnished by such beneficiary, duly
10 authenticated under seal of an officer of a court of law in
11 the country where such beneficiary resides, at such times
12 and in such manner as may be required by the board division.
13 And such proof shall be conclusive as to the identity of
14 such beneficiary, and any other claim of any other person to
15 any such compensation shall be barred from and after the
16 filing of such proof."

17 Section 12. Section 92-507, R.C.M. 1947, is amended to
18 read as follows:

19 "92-507. Payment to nonresident beneficiaries made to
20 whom. Payment of compensation to a beneficiary not residing
21 within the United States may be made to any plenipotentiary,
22 or consul, or consular agent within the United States,
23 representing the country in which such nonresident
24 beneficiary resides, and the written receipt of such
25 plenipotentiary, or consul, or consular agent shall acquit

1 the employer, the insurer, or the board division, as the
2 case may be."

3 Section 13. Section 92-508, R.C.M. 1947, is amended to
4 read as follows:

5 "92-508. Compensation paid to parent or guardian.
6 Where payment is due to a child under eighteen (18) years of
7 age or to a person adjudged incompetent, the same shall be
8 made to the parent or to the duly appointed guardian, as the
9 case may be, and the written receipt of such parent or
10 guardian shall acquit the employer, the insurer or ~~board~~
11 division, as the case may be, of further liability. In
12 other cases, payment shall be made to the person entitled
13 thereto or to his duly authorized representative."

14 Section 14. Section 92-607, R.C.M. 1947, is amended to
15 read as follows:

16 "92-607. Work to be paid for in property other than
17 money--wages. Where any employer procures any work to be
18 done, payment for which is to be made in property other than
19 money or its equivalent, and the value of which property is
20 speculative or intangible, the wages of the employees
21 receiving such compensation shall be determined by the board
22 division in accordance with the going wage for the same or
23 similar work in the district or locality where the same is
24 to be performed~~7. provided, however, that~~ However, where an
25 employer procures any work to be done by any contractor, or

through him by a subcontractor, the payment for which is to be made in property other than money or its equivalent, and the value of which property is speculative or intangible, then and in that event, the employer shall not be liable for compensation, but such liability shall fall upon the contractor or subcontractor, as the case may be."

Section 15. Section 92-608, R.C.M. 1947, is amended to read as follows:

"92-608. Compensation in case of death of employee--determination of beneficiary, etc. (1) If an injured employee dies and the injury was the proximate cause of such death, then the beneficiary~~7-or-the-major-or-minor dependents~~ of the deceased, as the case may be, shall receive the same compensation as though the death occurred immediately following the injury, but the period during which the death benefit shall be paid shall be reduced by the period during or for which compensation was paid for the injury.

(2) If the employee shall die from some cause other than the injury, there shall be no liability for compensation after his death.

(3) The question as to who constitutes a beneficiary~~7-or-a-major-or-minor-dependent~~, shall be determined as of the date of the happening of the accident to the employee, whether death shall immediately result therefrom or not."

Section 16. Section 92-609, R.C.M. 1947, is amended to read as follows:

"92-609. Examination of employee by physician--request or order for--physician may testify. (1) Whenever in case of injury the right to compensation under this act would exist in favor of any employee, he shall, upon the written request of his employer or the insurer, submit from time to time to examination by a physician, who shall be provided and paid for by such employer or insurer, and shall likewise submit to examination from time to time by any physician selected by the board division, or any member or examiner, or referee thereof.

(2) The request or order for such examination shall fix a time and place therefor, due regard being had to the convenience of the employee and his physical condition and ability to attend at the time and place fixed. The employee shall be entitled to have a physician, provided and paid for by himself, present at any such examination. So long as the employee, after such written request, shall fail or refuse to submit to such examination, or shall in any way obstruct the same, his right to compensation shall be suspended. Any physician employed by the employer, the insurer, or the board division, who shall make or be present at any such examination, may be required to testify as to the results thereof."

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1 Section 17. Section 92-614, R.C.M. 1947, is amended to
2 read as follows:

3 "92-614. Who liable for injuries under the different
4 plans of act and in what amounts, extraterritorial
5 application and reciprocity. (1) Every employer who shall
6 become bound by and subject to the provisions of
7 compensation plan number one (1), and every employer and
8 insurer who shall become bound by and subject to the
9 provisions of compensation plan number two (2), and the
10 industrial accident fund where the employer of the injured
11 employee has become bound by and subject to the provisions
12 of compensation plan No. 3, shall be liable for the payment
13 of compensation in the manner and to the extent hereinafter
14 provided to an employee who has elected to come under this
15 act, and who shall receive an injury arising out of and in
16 the course of his employment, or, in the case of his death
17 from such injury, to his beneficiaries, if any~~7-or7-if-none7~~
18 ~~to--his--major-dependents7-if-any7-or7-if-none7-to-his-minor~~
19 ~~dependents7-if-any.~~

20 (2) If a ~~workman~~ WORKER employed in this state who is
21 subject to the provisions of this act temporarily leaves the
22 state incidental to that employment and receives an injury
23 arising out of and in the course of such employment, the
24 provisions of this act shall apply to such ~~workman~~ WORKER as
25 though he were injured within this state.

1 (3) If a ~~workman~~ WORKER from another state and his
2 employer from another state are temporarily engaged in work
3 within this state, this act shall not apply to them:

4 (a) if the employer and employee are bound by the
5 provisions of the ~~Workmen's~~ WORKERS' Compensation Law or
6 similar law of such other state which applies to them while
7 they are in the state of Montana, and

8 (b) if the ~~Workmen's~~ WORKERS' Compensation Act of this
9 state is recognized and given effect as the exclusive remedy
10 for ~~workmen~~ WORKERS employed in this state who are injured
11 while temporarily employed in such other state.

12 (4) A certificate from an authorized officer of the
13 ~~workmen's~~ WORKERS' compensation department or similar agency
14 of another state certifying that an employer of such other
15 state is bound by the ~~Workmen's~~ WORKERS' Compensation Act of
16 the state and that its act will be applied to employees of
17 the employer while in the state of Montana shall be prima
18 facie evidence of the application of the ~~Workmen's~~ WORKERS'
19 Compensation Law of the certifying state.

20 (5) The ~~industrial-accident-board-shall-have-authority~~
21 ~~division may~~, with the approval of the governor, ~~to~~ enter
22 into agreements with ~~workmen's~~ WORKERS' compensation
23 agencies of other states for the purpose of promulgating
24 regulations not inconsistent with the provisions of this act
25 to carry out the extraterritorial application of the

1 ~~workmen's~~ WORKERS' compensation laws of the agreeing
2 states."

3 Section 18. Section 92-707, R.C.M. 1947, is amended to
4 read as follows:

5 "92-707. Compensation from what date paid. When an
6 ~~injured-employee-has-no-wife-child-father-mother-brother~~
7 ~~or-sister-residing-within-the-U-nited-States-who-would-be~~
8 ~~entitled-to-compensation-in-case-of-his-death-no~~
9 ~~compensation-shall-be-allowed-or-paid-during-the-first-week~~
10 ~~of-any-injury-except-as-may-be-required-by-the-provisions~~
11 ~~of-the-preceding-section-but-if-disability-continues-one~~
12 ~~(1)-week-compensation-shall-be-paid-from-the-date-of~~
13 ~~injury-where-the~~ injured employee has a beneficiary ~~or-a~~
14 ~~major-or-minor-dependent-residing-within-the-United-States~~
15 who ~~would-be~~ is entitled to compensation in case of his
16 death, no compensation shall be paid for the first week of
17 any injury, but if disability continues one (1) week,
18 compensation shall be paid from the date of injury. provided, that
19 However, separate benefits of medical and
20 hospital services shall be furnished from the date of
21 injury."

22 Section 19. Section 92-715, R.C.M. 1947, is amended to
23 read as follows:

24 "92-715. Biweekly payments converted into a lump sum.
25 The biweekly payments provided for in this act may be

1 converted, in whole or in part, into a lump-sum payment,
2 which lump-sum payment shall not exceed the estimated value
3 of the present worth of the deferred payments capitalized at
4 the rate of two per-centum percent (2%) per annum. Such
5 conversion can only be made upon the written application of
6 the injured ~~workman,~~ WORKER or his THE WORKER'S beneficiary,
7 ~~or-major-or-minor-dependents-as-the-case-may-be,~~ and shall
8 rest in the discretion of the ~~board~~ division, both as to the
9 amount of such lump-sum payment and the advisability of such
10 conversion. The ~~board~~ division is hereby vested with full
11 power, authority, and jurisdiction to compromise claims and
12 to approve compromises of claims under this act, ~~and--all~~
13 All settlements and compromises of compensation provided in
14 this act ~~shall-be-absolutely-null-and are~~ void without the
15 approval of the ~~board~~ division. Any approval of the ~~board~~
16 division must be in writing and set forth specifically the
17 reasons for such lump-sum or compromise payment."

18 Section 20. Section 92-804, R.C.M. 1947, is amended to
19 read as follows:

20 "92-804. Misrepresenting payroll. Any employer who
21 ~~shall-misrepresent~~ misrepresents to the ~~board~~ division the
22 amount of a payroll upon which the premiums or assessments
23 under compensation plan number three are to be levied, or
24 upon which fees for factory inspection, subsequent
25 inspection, or reinspection, as elsewhere provided in this

act, are based, shall be liable to the state in ten (10) times the amount of difference between the amount paid and the amount which should have been paid. Such liability may be recovered in a civil action brought in the name of the state. All sums collected under this section shall be paid into the fund to which the original payments were, or should have been credited."

Section 21. Section 92-806, R.C.M. 1947, is amended to read as follows:

"92-806. Duplicate receipts paid for injuries to be filed--statements of medical expenditures. Every employer coming under the provisions of compensation plan number one, and every insurer coming under the provisions of compensation plan number two, shall, on or before the fifteenth day of each and every month, file with the ~~industrial--accident--board~~ division duplicate receipts for all payments made during the previous month to injured ~~workmen~~ WORKERS or their beneficiaries or dependents; and statements showing the amounts expended during the previous month for medical, surgical, and hospital services, and for the burial of injured ~~workmen~~ WORKERS."

Section 22. Section 92-808, R.C.M. 1947, is amended to read as follows:

"92-808. Employers and insurers required to file reports of accidents. Every employer of labor and every

insurer is hereby required to file with the ~~board~~ division, under such rules ~~and-regulations~~ as the ~~board~~ division may, from time to time make, a full and complete report of every accident to an employee arising out of or in the course of his employment and resulting in loss of life or injury to such person. Such reports shall be furnished to the ~~board~~ division in such form and such detail as the ~~board~~ division shall from time to time prescribe, and shall make specific answers to all questions required by the ~~board~~ division under its rules ~~and--regulations~~, except, in case he is unable to answer any such questions, a good and sufficient reason shall be given for such failure."

Section 23. Section 92-809, R.C.M. 1947, is amended to read as follows:

"92-809. Confidential information used, how. No information furnished to the ~~board~~ division by an employer or an insurer shall be open to public inspection, or made public except on order of the ~~board~~ division, or by the ~~board~~ division or a member of the ~~board~~ division, in the course of a hearing or proceeding. Any officer or employee of the ~~board~~ division who, in violation of the provisions of this section, divulges any information, shall be guilty of a misdemeanor."

Section 24. Section 92-812, R.C.M. 1947, is amended to read as follows:

1 "92-812. Hearings and investigations--technical rules.
 2 All hearings and investigations before the board division,
 3 or any member thereof, shall be governed by this act and by
 4 rules of practice and procedure to be adopted by the board
 5 division, and in the conduct thereof neither the board
 6 division nor any member thereof shall be bound by the
 7 technical rules of evidence. No informality in any
 8 proceedings or in the manner of taking testimony shall
 9 invalidate any order, decision, award, rule, or regulation
 10 made, approved, or confirmed by the board division."

11 Section 25. Section 92-813, R.C.M. 1947, is amended to
 12 read as follows:

13 "92-813. Depositions may be taken. The board division,
 14 or any member thereof, or any party to the action or
 15 proceeding may, in any investigation or hearing before the
 16 board division, cause the deposition of witnesses residing
 17 within or without the state to be taken in the manner
 18 prescribed by law for like depositions in civil actions in
 19 the district courts of this state, and to that end may
 20 compel the attendance of witnesses and the production of
 21 books, documents, papers, and accounts."

22 Section 26. Section 92-814, R.C.M. 1947, is amended to
 23 read as follows:

24 "92-814. Powers of board division. The board division
 25 is hereby vested with full power, authority, and

1 jurisdiction to do and perform any and all things, whether
 2 herein specifically designated or in addition thereto, which
 3 are necessary or convenient in the exercise of any power,
 4 authority, or jurisdiction conferred upon it under this
 5 act."

6 Section 27. Section 92-814.1, R.C.M. 1947, is amended
 7 to read as follows:

8 "92-814.1. Requiring claimant to submit to
 9 examination--report of physician--cost. In the event of a
 10 dispute concerning the physical condition of a claimant, or
 11 the cause or causes of his injury or disability, if any, the
 12 board division, at the request of the claimant, employer or
 13 insurer, as the case may be, shall require the claimant to
 14 submit to such examination as it may deem desirable by a
 15 physician or physicians within the state of Montana or
 16 elsewhere who have had adequate and substantial experience
 17 in the particular field of medicine concerned with the
 18 matters presented by the dispute. The physician making such
 19 the examination shall file a written report of his findings
 20 with the board division for its use in the determination of
 21 the controversy involved. The board division shall pay the
 22 physician for such the examination and shall be reimbursed
 23 by the party who requested it."

24 Section 28. Section 92-815, R.C.M. 1947, is amended to
 25 read as follows:

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"92-815. Powers to issue writs and process--fees for serving. (1) The ~~board, and each member thereof shall have power to~~ division may issue writs of summons, warrants of attachment, warrants of commitment, and all necessary process in proceedings for contempt in like manner and to the same extent as courts of record. The process issued by the ~~board or any member thereof~~ division shall extend to all parts of the state, and may be served by any persons authorized to serve process of courts of record, or by any person designated for that purpose by the ~~board, or any member thereof~~ division.

(2) The person executing any such process shall receive such compensation as may be allowed by the ~~board~~ division, not to exceed the fees now prescribed by law for similar service, and such fees shall be paid in the same manner as provided herein for the fees of witnesses."

Section 29. Section 92-816, R.C.M. 1947, is amended to read as follows:

"92-816. Power to administer oaths, certify official acts, issue subpoenas--witness fees and mileage. The ~~board and each member thereof~~ division, its secretary and referees, ~~shall have the power to~~ may administer oaths, certify to all official acts, and to issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony in any inquiry,

investigation, hearing, or proceeding in any part of the state. Each witness who shall appear by order of the ~~board, or any member thereof~~ division shall be entitled to receive, if demanded, for his attendance the same fees and mileage allowed by law to a witness in civil cases in the district court, which amount shall be paid by the party at whose request such witness is subpoenaed, unless otherwise ordered by the ~~board~~ division. When any witness, who has not been required to attend at the request of any party, is subpoenaed by the ~~board~~ division, his fees and mileage may be paid from the funds appropriated for the use of the ~~board~~ division in the same manner as other expenses of the ~~board~~ division are paid. Any witness subpoenaed, except one whose fees and mileage may be paid from the funds of the ~~board~~ division, may at the time of service demand the fee to which he is entitled for travel to and from the place at which he is required to appear, and one day's attendance. If such witness demands such fees at the time of service and they are not at that time paid or tendered, he shall not be required to attend before the ~~board, or a member thereof~~ division or referee, as directed in the subpoena."

Section 30. Section 92-817, R.C.M. 1947, is amended to read as follows:

"92-817. Power of district court concerning production of testimony--contempt. The district court in and for the

1 county in which any inquiry, investigation, hearing, or
 2 proceeding may be held by the ~~board,--or--any--member--thereof~~
 3 division, shall have the power to compel the attendance of
 4 witnesses, the giving of testimony, and the production of
 5 papers, books, accounts, and documents as required by any
 6 subpoena issued by the ~~board,--or--any--member--thereof~~
 7 division. The ~~board,--or--any--member--thereof~~, division before
 8 whom the testimony is to be given or produced, in case of
 9 the refusal of any witness to attend or testify or produce
 10 any papers required by such subpoena, may report to the
 11 district court in and for the county in which the proceeding
 12 is pending, by petition, setting forth that due notice has
 13 been given of the time and place fixed for the attendance of
 14 said witness, or the production of said papers, and that the
 15 witness has been summoned in the manner prescribed in this
 16 act, and that the witness has failed and refused to attend,
 17 or produce the papers required by the subpoena before the
 18 ~~board--or--any--member--thereof~~ division in the case or
 19 proceeding named in the notice and subpoena, or has refused
 20 to answer questions propounded to him in the course of such
 21 proceedings, and ask an order of said the court compelling
 22 the witness to attend and testify or produce said papers
 23 before the ~~board~~ division. The court, upon the petition of
 24 the ~~board,--or--any--member--of--the--board,~~ division shall enter
 25 an order directing the witness to appear before the court at

1 the time and place to be fixed by the court in such order,
 2 not more than ten days from the date of the order, and then
 3 and there show cause why he had not attended or testified,
 4 or produced such papers before the ~~board~~ division. A copy
 5 of ~~said the~~ order shall be served upon ~~said the~~ witness. If
 6 it shall appear to the court that ~~said the~~ subpoena was
 7 regularly issued by the ~~board,--or--a--member--thereof,~~ division
 8 and regularly served, the court shall thereupon enter an
 9 order that ~~said the~~ witness appear at the time and place
 10 fixed in ~~said the~~ order, and testify or produce the required
 11 papers, and upon failure to obey ~~said the~~ order, ~~said the~~
 12 witness shall be dealt with as for contempt of court. The
 13 remedy provided in this section is cumulative, and shall not
 14 be construed to impair or interfere with the power of the
 15 ~~board,--or--a--member--thereof,~~ division to enforce the
 16 attendance of witnesses and the production of papers, and to
 17 punish for contempt, in the same manner and to the same
 18 extent as courts of record."

19 Section 31. Section 92-818, R.C.M. 1947, is amended to
 20 read as follows:

21 "92-818. Certificates and certified copies as
 22 evidence. Copies of official documents and orders filed or
 23 deposited according to law in the office of the ~~board~~
 24 division, certified to by a member of the ~~board~~ division, or
 25 by the secretary under the official seal of the ~~board~~

division, to be true copies of the original, shall be evidence in like manner as the originals. In any court proceeding, wherein the question as to whether or not an employer or employee has complied with and is operating under or bound by the provisions of the ~~Workmen's~~ WORKERS' Compensation Act of the state of Montana, is a question for determination, a certificate by a member of the ~~board~~ division, or by the secretary under the official seal of the ~~board~~ division, certifying that such employer or employee has or has not complied with, and is or is not operating under, and is or is not bound by the provisions of the ~~Workmen's~~ WORKERS' Compensation Act of the state of Montana, shall be prima facie evidence thereof."

Section 32. Section 92-819, R.C.M. 1947, is amended to read as follows:

"92-819. Apportionment of costs and disbursements--expenses. The costs and disbursements incurred in any proceeding or hearing before the ~~board, or a member thereof,~~ division may be apportioned between the parties on the same or adverse sides, in the discretion of the ~~board~~ division."

Section 33. Section 92-820, R.C.M. 1947, is amended to read as follows:

"92-820. Books, records and payrolls to be open to inspection. The books, records, and payrolls of the

employer, pertinent to the administration of this act, shall always be open to inspection by the ~~board~~ division or any duly authorized employee thereof, for the purpose of ascertaining the correctness of the payroll, the number of men employed, and such other information as may be necessary for the ~~board~~ division and its management under this act. Refusal on the part of the employer to submit said books, records, and payrolls for such inspection shall subject the offending employer to a penalty of one hundred dollars (\$100) for each offense, to be collected by civil action in the name of the state, and paid into the state treasury."

Section 34. Section 92-821, R.C.M. 1947, is amended to read as follows:

"92-821. Jurisdiction of ~~board~~ division to hear disputes and controversies. All proceedings to determine disputes or controversies arising under this act shall be instituted before the ~~board~~ division, and not elsewhere, and heard and determined by ~~them~~ the division, except as otherwise in this act provided, and the ~~board~~ division is hereby vested with full power, authority, and jurisdiction to try and finally determine all such matters, subject only to review in the manner and within the time in this act provided."

Section 35. Section 92-822, R.C.M. 1947, is amended to read as follows:

"92-822. Presumption as to legality of rules, orders, findings, etc., of board division. All orders, rules, and regulations, findings, decisions, and awards of the board division in conformity with law shall be in force and shall be prima facie lawful; and all such orders, rules, and regulations, findings, decisions, and awards shall be conclusively presumed to be reasonable and lawful, until and unless they are modified or set aside by the board division or upon review."

Section 36. Section 92-823, R.C.M. 1947, is amended to read as follows:

"92-823. Time for filing--final findings and awards. The board division shall hold the initial hearing to determine any dispute or controversy arising under this act within ninety (90) days from the date on which such disputed claim was filed with the board division. After a final hearing by the board division, it shall within thirty (30) days, make and file its findings upon all facts involved in the controversy, and its award, which shall state its determination as to the right of the parties."

Section 37. Section 92-824, R.C.M. 1947, is amended to read as follows:

"92-824. Power of board division to award compensation and time and manner of payment. The board division in its award may fix and determine the total amount of compensation

to be paid, and specify the manner of payment, or may fix and determine the weekly disability indemnity to be paid, and order payment thereof during the continuance of such disability~~;~~ ~~providing--however--that--the~~ The payment of such award and indemnity shall be in the same manner as that of undisputed awards and indemnities coming within the particular plan provided for in this act to which ~~said~~ the award and indemnity belong."

Section 38. Section 92-824.1, R.C.M. 1947, is amended to read as follows:

"92-824.1. Increase in award for unreasonable delay or refusal to pay. When payment of compensation has been unreasonably delayed or refused, either prior or subsequent to the issuance of an award, the full amount of the order, decision or award may be increased by ten per cent (10%) of the weekly award. The question of unreasonable delay or refusal shall be determined by the board division and such a finding shall constitute good cause to rescind, alter or amend any order, decision or award previously made in said cause for the purpose of making the increase provided herein."

Section 39. Section 92-825, R.C.M. 1947, is amended to read as follows:

"92-825. When a nominal disability indemnity may be awarded. If in any proceeding it is proved that an accident

has happened for which the employer would be liable to pay compensation if disability has resulted therefrom, but it is not proved that an incapacity has resulted, the ~~board~~ division may, instead of dismissing the application, award a nominal disability indemnity if it appears that disability is likely to result at a future time."

Section 40. Section 92-826, R.C.M. 1947, is amended to read as follows:

"92-826. Jurisdiction to rescind or amend any order, decision, award, etc. The ~~board~~ division shall have continuing jurisdiction over all its orders, decisions, and awards, and may, at any time, upon notice, and after opportunity to be heard is given to the parties in interest, rescind, alter, or amend any such order, decision, or award made by it upon good cause appearing therefor. Provided, that the ~~board~~ division shall not have power to rescind, alter, or amend any final settlement or award of compensation more than four (4) years after the same has been made, and provided further that the ~~board~~ division shall not have the power to rescind, alter or amend any order approving a full and final compromise settlement of compensation. Any order, decision, or award rescinding, altering, or amending a prior order, decision, or award, shall have the same effect as original orders or awards."

Section 41. Section 92-827, R.C.M. 1947, is amended to

read as follows:

"92-827. Record of proceedings to be kept and testimony to be taken down--attorney's fees--transcripts on appeal--indigent claimants. (1) A full and complete record shall be kept of all proceedings and hearings had before the ~~board, or any member thereof,~~ division of any formal hearing had, and all testimony produced before the ~~board--or--any member---thereof~~ division shall be taken down by a stenographic reporter appointed by the ~~board~~ division, and the parties shall be entitled to be heard in person or by attorney.

(2) Whenever the claimant or plaintiff is represented by an attorney either before the ~~board~~ division or the courts, the ~~industrial-accident-board~~ division may, in its discretion or upon the application of the claimant or plaintiff, fix the amount of the attorney fee of the attorney representing the claimant or plaintiff, and the fee fixed by the ~~board~~ division shall be paid by claimant or plaintiff.

(3) In cases of an action to review any order or decision of the ~~board~~ division, a transcript of such testimony, together with all exhibits, and of the pleadings, records, and proceedings in the cause shall constitute the record of the ~~board~~ division. ~~Provided-further, that-the~~ board The division must furnish a copy of such testimony,

1 written exhibits, pleadings, records and proceedings to the
2 claimant without cost.

3 (4) After judgment on appeal to the district court, an
4 indigent claimant, deeming himself aggrieved, may file in
5 ~~said~~ the court an affidavit that he does not have money,
6 property or credit sufficient to pay for the cost of a
7 transcript on appeal to the supreme court, and the clerk of
8 court serve a copy by registered mail, return receipt
9 requested, on the ~~industrial-accident-board,~~ the division.
10 The affidavit shall be prima facie evidence of the truth of
11 the facts stated therein, ~~in-the-event~~ If the board-contest
12 division contests the allegations, the court shall fix a
13 date for the hearing thereof, not less than five (5) nor
14 more than ten (10) days from the date of filing, and shall
15 make its determination of the controversy, and if it be
16 found and adjudged that the claimant does not have
17 sufficient money, property or credit to pay for ~~such~~ the
18 transcript, the order shall direct the ~~industrial-accident~~
19 ~~board~~ division to furnish the same at its expense to be paid
20 from the industrial accident administrative earmarked
21 revenue account.

22 (5) All proceedings on ~~such~~ appeal, including
23 preparation, presentation and settlement of the bill of
24 exceptions, shall be continued pending determination of the
25 controversy.

1 (6) If the ~~board~~ division does not contest the
2 allegations of the claimant's affidavit within ten (10) days
3 from receipt, it shall be deemed in default and the court
4 shall make its order in favor of claimant on expiration of
5 such period."

6 Section 42. Section 92-828, R.C.M. 1947, is amended to
7 read as follows:

8 "92-828. Collateral attack not permitted. No orders or
9 decisions of the ~~board~~ division shall be subject to
10 collateral attack, and may be reviewed or modified only in
11 the manner provided therein."

12 Section 43. Section 92-829, R.C.M. 1947, is amended to
13 read as follows:

14 "92-829. Application for rehearing. At any time within
15 twenty (20) days after the service of any order or decision
16 of the ~~board~~ division, any party or parties aggrieved
17 thereby may apply for a rehearing upon one or more of the
18 following grounds, and upon no other grounds:

19 (1) That the ~~board~~ division acted without or in excess
20 of its powers;

21 (2) That the order, decision, or award was procured by
22 fraud;

23 (3) That the evidence does not justify the findings;

24 (4) That the applicant has discovered new evidence,
25 material to him, and which he could not, with reasonable

1 diligence, have discovered and produced at the hearing;

2 (5) That the findings do not support the order,
3 decision, or award;

4 (6) That the order, decision, or award is
5 unreasonable."

6 Section 44. Section 92-830, R.C.M. 1947, is amended to
7 read as follows:

8 "92-830. Board Division may at any time diminish or
9 increase an award. Nothing contained in the preceding
10 section shall, however, be construed to limit the right of
11 the board division, at any time after the date of its award,
12 and from time to time after due notice and upon the
13 application of any party interested, to review, diminish, or
14 increase, within the limits provided by this act, any
15 compensation awarded upon the grounds that the disability of
16 the person in whose favor such award was made has either
17 increased or diminished or terminated."

18 Section 45. Section 92-831, R.C.M. 1947, is amended to
19 read as follows:

20 "92-831. Application for rehearing--contents--rules of
21 procedure. The application for rehearing shall set forth
22 specifically and in full detail the grounds upon which the
23 applicant considers ~~said~~ the order, decision, award, rule,
24 or regulation to be unjust, or unlawful, and shall in other
25 respects conform to such rules ~~and regulations~~ as the board

1 division may prescribe. The ~~board-shall-have-full-power-and~~
2 ~~authority--to-make-and-prescribe~~ division may adopt rules to
3 govern the procedure upon rehearing, and any matter before
4 it and any order made after such rehearing abrogating or
5 changing the original order shall have the same force and
6 effect as an original order, and shall not affect any right,
7 or enforcement of any right, arising from or by virtue of
8 the original order."

9 Section 46. Section 92-832, R.C.M. 1947, is amended to
10 read as follows:

11 "92-832. Application for rehearing or appeal shall not
12 operate as stay. An application for rehearing or the appeal
13 hereinafter provided shall not excuse any employer,
14 employee, or other person from complying with or obeying any
15 order or requirement of the board division, or operate in
16 any manner to stay or postpone the enforcement of an order
17 or requirement thereof, except as the board division or the
18 court may direct."

19 Section 47. Section 92-834, R.C.M. 1947, is amended to
20 read as follows:

21 "92-834. How appeal taken -- notice -- record --
22 trial. ~~Said~~ The appeal shall be taken by serving a written
23 ~~notice--of--said-appeal-upon-the-chairman-of-such-industrial~~
24 ~~accident-commission, or upon any other member thereof, which~~
25 ~~said-service-shall-be-made-by-the-delivery-of-a~~ copy of such

1 a notice of appeal to--such--chairman--or--member, on the
 2 ADMINISTRATOR OF THE division and filing the original with
 3 the clerk of the court to which ~~said~~ the appeal is taken. A
 4 copy of ~~such~~ the notice must also be served upon the
 5 adversary party, if ~~there-be~~ any, by mailing the ~~same~~ copy
 6 to ~~said~~ the adversary party to ~~such~~ the address of ~~such~~ the
 7 party as ~~said~~ the party shall have left with the ~~board~~
 8 division. If ~~such~~ the party ~~shall-have~~ has left no address
 9 with the ~~board~~ division, then no service upon ~~such~~ the party
 10 shall be required. The order of filing and service of ~~said~~
 11 the notice is immaterial. Immediately upon service upon
 12 ~~said-board~~ the division of ~~said~~ the notice, the ~~said--board~~
 13 division shall certify to ~~said~~ the district court the entire
 14 record and proceedings, including all testimony and evidence
 15 taken by ~~said-board~~ the division, with the clerk of ~~said~~ the
 16 district court. Immediately upon the return of ~~such~~ the
 17 certified record, the district court shall fix a day for the
 18 hearing of ~~said~~ the cause, and shall cause notice to be
 19 served upon the ~~board~~ division and upon the appellant, and
 20 also upon the adversary party, if there be any. The court
 21 may, upon the hearing, for good cause shown, permit
 22 additional evidence to be introduced, but, in the absence of
 23 such permission from the court, the cause shall be heard on
 24 the record of the ~~board~~ division, as certified to the court
 25 by it. The trial of the matter shall be de novo, and upon

1 such trial the court shall determine whether or not the
 2 ~~board~~ division regularly pursued its authority, and whether
 3 or not the findings of the ~~board~~ division ought to be
 4 sustained, and whether or not such findings are reasonable
 5 under all the circumstances of the case."

6 Section 48. Section 92-835, R.C.M. 1947, is amended to
 7 read as follows:

8 "92-835. Appearances--setting aside conclusions,
 9 orders, etc., of ~~board~~ division--judgment and findings. The
 10 ~~board~~ division and each party to the action or proceeding
 11 before the ~~board~~ division shall have the right to appear in
 12 the proceeding, and it shall be the duty of the ~~board~~
 13 division to so appear. If the court ~~shall-find~~ finds from
 14 ~~such~~ the trial, as aforesaid, that the findings and
 15 conclusions of the ~~board~~ division are not in accordance with
 16 either the facts or the law, or that they ought to be other
 17 or different than those made by the ~~board~~ division, or that
 18 any finding and conclusion, or any order, rule, or
 19 requirement of the ~~board~~ division is unreasonable, the court
 20 shall set aside ~~such~~ the finding, conclusion, order,
 21 judgment, decree, rule, or requirement of ~~said-board~~ the
 22 division, or shall modify or change the same as law and
 23 justice shall require, and the court shall also make and
 24 enter any finding, conclusion, order or judgment that shall
 25 be required, or shall be legal and proper in the premises."

1 Section 49. Section 92-836, R.C.M. 1947, is amended to
2 read as follows:

3 "92-836. Appeals to supreme court. Either the ~~board~~
4 division, or the appellant, or any adversary party, if there
5 be one, may appeal to the supreme court of the state of
6 Montana from any final order, judgment, or decree of the
7 ~~said~~ district court, which ~~said~~ appeal shall be taken in
8 like manner as appeals are now taken in other civil actions
9 to the ~~said~~ supreme court, and upon such appeal the ~~said~~
10 supreme court shall make such orders in reference to a stay
11 of proceedings as it finds to be just in the premises, and
12 may stay the operation of any order, judgment, or decree of
13 ~~said~~ the district court, without requiring any bond or
14 undertaking from the applicant for such stay. When any such
15 cause is so appealed it shall have precedence upon the
16 calendar of the ~~said~~ supreme court, and shall be tried anew
17 by ~~said~~ the supreme court upon the record made in ~~said~~ the
18 district court and before ~~said--board~~ the division, and
19 judgment and decree shall be entered therein as
20 expeditiously as possible."

21 Section 50. Section 92-842, R.C.M. 1947, is amended to
22 read as follows:

23 "92-842. Annual report--copies for general
24 distribution. The board division shall, not later than ~~the~~
25 ~~first-day-of~~ October 1 of each year, make a report to the

1 governor covering its entire operations and proceedings for
2 the preceding fiscal year, with such suggestions or
3 recommendations as it may deem of value for public
4 information. A reasonable number of copies of such report
5 shall be printed for general distribution."

6 Section 51. Section 92-903, R.C.M. 1947, is amended to
7 read as follows:

8 "92-903. Employer permitted to carry on business and
9 settle directly with employee--renewal of application. If
10 such employer, making such election, shall be found by the
11 board division to have the requisite financial ability to
12 pay the compensation and benefits in this act provided for,
13 then the board division shall grant to ~~such~~ the employer
14 permission to carry on his ~~said~~ business for the fiscal year
15 within which such election is made, and such proof filed, or
16 the remaining portion of such fiscal year, and to make such
17 payments directly to his employees as they may become
18 entitled to receive the same. Every employer, so long as he
19 continues in his ~~said~~ employment, and so long as he
20 continues to be bound by ~~such~~ compensation plan No. 1,
21 shall, at least thirty (30) days before the expiration of
22 each fiscal year, renew his application to be permitted to
23 continue to make such payments as aforesaid directly to his
24 employees for the next ensuing fiscal year, and under like
25 circumstances as those mentioned for the granting of such

1 permission upon such first application, the board may renew
2 the same from year to year."

3 Section 52. Section 92-904, R.C.M. 1947, is amended to
4 read as follows:

5 "92-904. Additional proof of solvency--revocation of
6 order. The ~~board~~ division may at any time require from any
7 employer acting under compensation plan No. 1 additional
8 proof of solvency and financial ability to pay the
9 compensation provided by this act, and may at any time, upon
10 notice to such employer of not less than ten (10) or more
11 than twenty (20) days, after and upon a full hearing, revoke
12 any order or approval theretofore made."

13 Section 53. Section 92-905, R.C.M. 1947, is amended to
14 read as follows:

15 "92-905. Requiring security of employer. If ~~said~~
16 ~~industrial--accident--board--shall--find~~ the division finds
17 that ~~such an~~ employer ~~has~~ does not ~~have the~~ financial
18 responsibility for the payment of the compensation herein
19 provided to be paid, which might reasonably be expected to
20 be chargeable to ~~such the~~ employer during the fiscal year to
21 be covered by ~~such the~~ permission, ~~said-industrial-accident~~
22 ~~board-must-so-find,-and~~ the division must require ~~such the~~
23 employer, before granting to him ~~such~~ permission, or before
24 continuing or engaging in such employment, subject to the
25 provisions of compensation plan No. 1, to give security for

1 such payment, which security must be in such an amount as
2 ~~said-board-shall-find~~ the division finds is reasonable and
3 necessary to meet all liabilities of ~~such the~~ employer,
4 which may reasonably and ordinarily be expected to accrue
5 during ~~such the~~ fiscal year. ~~said~~ The security must be
6 deposited with the ~~treasurer-of-the-board~~ division, and may
7 be a certain estimated ~~per--centum~~ percent of ~~said the~~
8 employer's last preceding annual payroll, or a certain ~~per~~
9 ~~centum~~ percent of the established amount of his annual
10 payroll for ~~said the~~ fiscal year or ~~said the~~ security may be
11 in the form of a bond or undertaking executed to ~~said~~
12 ~~industrial--accident--board~~ the division in the amount to be
13 fixed by it with two (2) or more sufficient sureties, which
14 undertaking must be conditioned that ~~such the~~ employer will
15 well and truly pay, or cause to be paid, all ~~such~~ sums and
16 amounts for which the employer shall become liable under the
17 terms of this act to his employees during ~~said the~~ fiscal
18 year; or such security may consist of any state, county,
19 municipal, or school district bonds, or the bonds or
20 evidence of indebtedness of any individuals or corporations
21 which the ~~board-may-deem~~ division deems solvent; and every
22 such deposit and the character and amount of such securities
23 shall at all times be subject to approval, revision, or
24 change by the ~~board~~ division as in its judgment may be
25 required, and upon proof of the final payment of the

liability for which such securities are given, such securities, or any remaining part thereof, shall be returned to the depositor. The ~~treasurer--of--the--board--and--his~~ division ~~bondsmen--shall--be~~ is liable for the value and safekeeping of all such deposits or securities, and shall, at any time, upon demand of ~~the a~~ a bondsmen or the depositor ~~or--the--board,~~ account for the same, and the earnings thereof."

Section 54. Section 92-906, R.C.M. 1947, is amended to read as follows:

"92-906. Failure of employer to pay compensation--duty of board division. Upon the failure of ~~said the~~ employer to pay any compensation provided for in this act, upon the terms and in the amounts and at the times when the same ~~shall~~ become due and payable, ~~it the division shall be--the~~ duty-of-such-state-accident-board, upon demand of the person to whom compensation is due, ~~to~~ apply any deposits made with the board division to the payment of the same, and ~~it the~~ division shall ~~be-its-duty--to~~ take the proper steps to convert any securities on deposit with the ~~said-board~~ division, or sufficient thereof, into cash and to pay the same upon the liabilities of ~~said the~~ employer, accruing under the terms of this act, and ~~it-shall-be-its-duty--in-so~~ far-as-the-same-shall-be the division shall when necessary, ~~to~~ collect and enforce the collection of the liability of

all sureties upon any bonds which may be given by the ~~said~~ employer to insure the payment of his ~~said~~ liability. And to these ends, and for these purposes, the board division shall be deemed to be the owner of ~~said the~~ deposit and security and the obligee in ~~said the~~ bond in trust for the ~~said~~ purposes, and may proceed in its own name to recover upon ~~such the~~ bonds, or foreclose and liquidate ~~said the~~ securities."

Section 55. Section 92-907, R.C.M. 1947, is amended to read as follows:

"92-907. When employer to make deposit or security to guarantee payment of compensation. Within thirty (30) days after the happening of an accident where death or the nature of the injury renders the amount of future payments certain, or reasonably certain, the employer shall make a deposit or give security as herein defined with the ~~treasurer--of--the~~ board division for the protection and guaranty of the payment of such liability, in such sum as the board division may direct, ~~provided, however, that~~ However, if sufficient securities are already on deposit with the ~~said--board~~ division, or if the ~~said--board--shall--have--determined~~ division determines that the employer has sufficient financial responsibility to meet ~~said the~~ liability of the ~~said the~~ employer, together with other liabilities already accrued, no such additional deposit or security shall be

demanded."

Section 56. Section 92-908, R.C.M. 1947, is amended to read as follows:

"92-908. When employer may be relieved from liability. Any employer against whom liability may exist for compensation under this act, may, with the approval of the board division, be relieved therefrom by:

(1) Depositing the present value or the estimated present value of the total unpaid compensation for which such liability exists, assuming interest at five ~~per--centum~~ percent per annum, with the ~~treasurer-of-the-board~~ division; or,

(2) Purchasing an annuity within the limitations provided by law, in any insurance company granting annuities, and authorized to transact business in this state, subject to the approval of the board division."

Section 57. Section 92-1002, R.C.M. 1947, is amended to read as follows:

"92-1002. Duty of employer electing plan No. 2--amount of insurance necessary. Any employer electing to become bound by compensation plan No. 2 shall make his election on the form and in the manner prescribed by the board division. Such election shall be accompanied by a certificate issued by the insurer on the form prescribed by the board division, which shall state the effective date of

the policy insuring the employer, its expiration date and such other information as may be required by the board division to inform the board division of the adequacy of the insurance."

Section 58. Section 92-1004, R.C.M. 1947, is amended to read as follows:

"92-1004. Agreement to be contained in policies of insurance--deposit of bonds. No such policy shall be issued unless it contains the agreement of the insurer that it will promptly pay to the person entitled to compensation all the installments of compensation or other payments in this act provided for, and that the obligation shall not be affected by any default of the insured after the injury, or by any default in the giving of any notice required by such policy or by this act or otherwise. Such agreement shall be construed to be a direct promise by the insured to the person entitled to compensation. Before issuance of any policy by an insurer as herein authorized, such insurer must deposit with the ~~treasurer-of-the-industrial-accident-board~~ division, bonds of the United States or the state of Montana, or of any school district, county, city or town in the state of Montana, or a corporate surety bond made out to and approved by the board division, in an amount not less than five thousand dollars (\$5,000.00) or more than one hundred thousand dollars (\$100,000), as the ~~industrial~~

1 ~~accident--board~~ division may determine. If any insurer ~~shall~~
 2 ~~fail~~ fails to discharge any liability after the amount
 3 thereof shall be determined by the ~~board~~ division, and
 4 within the time limited by the division, ~~board, it shall--be~~
 5 ~~the--duty--of--the-board-to~~ the division shall convert ~~said~~
 6 the bonds, or such part thereof as is necessary, into cash,
 7 and from the proceeds liquidate such liability; and
 8 thereafter ~~said~~ the insurer must make an additional deposit
 9 to meet any deficiency caused thereby. It is intended hereby
 10 to give the ~~industrial--accident--board~~ division the
 11 discretion in the matter of whether an insurer has failed to
 12 discharge any liability."

13 Section 59. Section 92-1005, R.C.M. 1947, is amended
 14 to read as follows:

15 "92-1005. (2982) Policies made subject to this
 16 act--assessment of insurers. (1) Every policy for the
 17 insurance of the compensation herein provided for, or
 18 against liability therefor, shall be deemed to be made
 19 subject to the provisions of this act. No insurer shall
 20 enter into any such policy of insurance unless its forms
 21 ~~shall~~ have been approved by the ~~board~~ division, and as
 22 otherwise provided by law.

23 (2) On or before ~~the-first-day-of~~ July 1 of each year,
 24 the ~~board~~ division shall assess and each insurer shall pay
 25 to the ~~board~~ division not to exceed three and one-fourths

1 per cent (3 1/4%) of its gross annual direct premiums
 2 collected in Montana on policies of insurance insuring
 3 employers who elected to become bound by ~~the~~ compensation
 4 plan No. 2 during the previous calendar year, less return
 5 premiums. No such assessment shall be less than two hundred
 6 dollars (\$200). The ~~treasurer-of-the-board~~ division shall
 7 pay the amounts so collected into the state treasury.
 8 Payments by ~~such~~ the insurers under this section shall be
 9 considered as items of loss for rate-making purposes."

10 Section 60. Section 92-1006, R.C.M. 1947, is amended
 11 to read as follows:

12 "92-1006. Renewals. Every certificate of renewal of
 13 such policy shall be made and delivered to ~~said--board~~ the
 14 division at least thirty (30) days prior to the expiration
 15 of the expiring policy."

16 Section 61. Section 92-1007, R.C.M. 1947, is amended
 17 to read as follows:

18 "92-1007. Deposits by insurer with ~~board~~ division.
 19 Within thirty (30) days of the happening of an accident
 20 where death or the nature of the injury renders the amount
 21 of future payments certain or reasonably certain, the
 22 insurer shall make a deposit, as herein defined, with the
 23 ~~treasurer-of-the--board~~ division for the protection and
 24 guarantee of the payment of such liability in such sum as
 25 the ~~board~~ division may direct, ~~provided, that~~ However, if

1 the ~~board~~ division deems the amount on deposit by ~~said~~ the
2 insurer under the provisions of section 92-1004 sufficient
3 to cover all liabilities of the insurer, then no further
4 deposit shall be required."

5 Section 62. Section 92-1008, R.C.M. 1947, is amended
6 to read as follows:

7 "92-1008. How insurer relieved from liability. Any
8 insurer against whom liability may exist for compensation
9 under this act, may, with the approval of the ~~board~~
10 division, be relieved therefrom by:

11 (1) Depositing the present value or the estimated
12 present value of the total unpaid compensation for which
13 such liability exists, assuming interest at five ~~per--centum~~
14 percent per annum, with the ~~treasurer-of-the-board~~ division;
15 or,

16 (2) By purchasing an annuity within the limitations
17 provided by law in any insurance company granting annuities,
18 and authorized to transact business in this state, subject
19 to the approval of the ~~board~~ division."

20 Section 63. Section 92-1009, R.C.M. 1947, is amended
21 to read as follows:

22 "92-1009. Cancellation of insurance policy. No policy
23 of insurance issued under the provisions of compensation
24 plan No. 2 shall be canceled within the time limited for its
25 expiration except upon thirty (30) days' notice to the

1 employer in favor of whom such policy is issued, and to the
2 ~~board~~ division, unless such policy sought to be canceled
3 shall have been sooner replaced by other insurance."

4 Section 64. Section 92-1010, R.C.M. 1947, is amended
5 to read as follows:

6 "92-1010. Report of insurance companies to ~~board~~
7 division. Every insurance company transacting business under
8 this act shall, at the time and in the manner prescribed by
9 the ~~board~~ division, make and file with the ~~board~~ division
10 such reports of accidents as the ~~board~~ division may
11 require."

12 Section 65. Section 92-1101, R.C.M. 1947, is amended
13 to read as follows:

14 "92-1101. What necessary in electing plan No.
15 3--percentage of payroll to be paid under plan.
16 COMPENSATION PLAN NUMBER THREE

17 Every employer subject to the provisions of
18 compensation plan No. 3 shall at the times and in the manner
19 prescribed by the ~~industrial-accident-board~~ division, pay to
20 the ~~industrial-accident-board~~ division a premium based on a
21 percentage of his payroll as determined by the ~~industrial~~
22 ~~accident--board~~ division which shall be a member of a rating
23 organization in accordance with the provisions of this act."

24 Section 66. Section 92-1102, R.C.M. 1947, is amended
25 to read as follows:

"92-1102. Permitting employers to elect to comply and come under the provisions of this act. An employer shall comply with the provisions of this act, in which event he will not be liable to respond in damages at common law or by statute for injury or death of an employee and shall enjoy the benefits and privileges of this act. The employee of the employer is considered to come under the provisions of this act unless the employee executes and files with the division on proper forms to be furnished for that purpose, a specific election not to be so bound, in which event he shall not enjoy the benefits or privileges of this act until the election is withdrawn."

Section 67. Section 92-1103, R.C.M. 1947, is amended to read as follows:

"92-1103. Manner of electing--contract or policy of insurance--payment of premium. The ~~industrial-accident-board~~ division shall prescribe the procedure by which employers may elect to be bound by compensation plan No. 3, the effective time of such election and the manner in which such election is terminated for reasons other than default in payment of premiums. Every employer electing to be bound by compensation plan No. 3 shall receive from the ~~industrial-accident-board~~ division a contract or policy of insurance in a form approved by the board division. The premium thereon shall be paid by the employer, to the ~~industrial-accident~~

board division at such times as the board division shall prescribe and shall be paid over by the board division to the state treasurer to the credit of the industrial insurance account in the agency fund."

Section 68. Section 92-1104, R.C.M. 1947, is amended to read as follows:

"92-1104. Classifications by board division. The ~~industrial-accident-board~~ division is hereby given full power and authority to determine premium rates and classifications as in its judgment and experience, and as member of a rating organization as is otherwise provided for in this code, may be necessary or expedient, provided that no change in the classification or rates prescribed shall be effective until thirty (30) days after the date of the order making such change."

Section 69. Section 92-1105, R.C.M. 1947, is amended to read as follows:

"92-1105. Intent and purpose of plan No. 3. (1) It is the intent and purpose of compensation plan No. 3 that each industry, trade, occupation or employment coming under the provisions of ~~said~~ the plan shall be liable to pay for injuries happening to employees coming under the provisions of the ~~Workmen's~~ WORKERS' Compensation Act.

(2) All premiums, penalties, recoveries by subrogation, interest earned upon money belonging to the

1 fund, and securities acquired by or through use of money
2 shall be deposited in the industrial insurance account in
3 the agency fund.

4 (3) The industrial insurance program shall be neither
5 more nor less than self-supporting. Employments affected by
6 the provisions hereof shall be divided by the board division
7 as a member of a rating organization into classes, whose
8 rates may be readjusted at such times as the board division
9 as a member of such rating organization may determine.
10 Separate accounts shall be kept of the amounts collected and
11 expended in each class for determining rates but for payment
12 of compensation and dividends the industrial insurance
13 account shall be one and indivisible. The board division as
14 a member of such rating organization shall determine the
15 hazards of the different classes of occupations or
16 industries and fix the premiums therefor at the lowest rate
17 consistent with maintenance of a solvent industrial
18 insurance fund, and the creation of surplus and reserves and
19 for such purpose may adopt a system of schedule rating in
20 such a manner as to take account of the peculiar hazard of
21 each risk, and shall take advantage of the experience and
22 information afforded to it as a member of such rating
23 organization.

24 (4) The board division in fixing rates shall provide
25 for the expenses of administering the industrial insurance

1 account allowed by law, the disbursements on account of
2 injuries and deaths of employees in each class, an adequate
3 catastrophe reserve, reserves adequate to meet anticipated
4 and unexpected losses, and such other reserves and surplus
5 as may be determined by the board division as a member of
6 such rating organization."

7 Section 70. Section 92-1105.1, R.C.M. 1947, is amended
8 to read as follows:

9 "92-1105.1. Advanced rate for dangerous places of
10 employment. If by reason of poor or careless management, or
11 otherwise, any place of employment ~~be is~~ unduly dangerous in
12 comparison with other like places of employment, and the
13 employer operating the same ~~shall has~~ not ~~have~~ complied with
14 the safety provisions of the Montana Safety Act, and ~~such~~
15 ~~the~~ employer ~~shall-be is~~ under compensation plan number 3,
16 the board division, in addition to any other penalty
17 provided, shall advance the rate upon such place of
18 employment fifty (50) per cent., ~~and-such~~ The advanced rate
19 shall continue and be in force until ~~such the~~ the place of
20 employment ~~shall-have has~~ ceased to be unduly dangerous in
21 comparison with other like places of employment and ~~such the~~
22 employer ~~shall-have has~~ obtained a certificate of the board
23 division."

24 Section 71. Section 92-1108, R.C.M. 1947, is amended
25 to read as follows:

"92-1108. In case of default, rates to be advanced twenty-five per cent (25%). Any employer who is in default in the observance of any order of the board division, issued pursuant to the provisions of sections 92-1101 to 92-1105, inclusive, shall, in addition to any other penalty provided by this act, be charged an advance of twenty-five per-centum percent (25%) over the established rate, and such advanced rate shall continue and be in force until such the employer ~~shall-have~~ has ceased to be in such default."

Section 72. Section 92-1110, R.C.M. 1947, is amended to read as follows:

"92-1110. Surplus in industrial insurance account. If at the end of any fiscal year, there exists in the industrial insurance account in the agency fund an excess of assets over liabilities, and a reasonable surplus, such liabilities to include necessary reserves, which excess may be divided safely, then the board division may declare a dividend in such manner as the rules of the board division may prescribe, to those employers who have paid premiums into the industrial insurance account in the agency fund in excess of liabilities chargeable to them in the account in the agency fund for that year. In determining the amount or proportion of such the balance to which the employer is entitled as dividends, the board division shall give consideration to the prior paid premiums and accident

experience of each individual employer during the dividend year."

Section 73. Section 92-1112, R.C.M. 1947, is amended to read as follows:

"92-1112. Investment of reserve--payment of installments. The ~~treasurer-of-the-board~~ division shall turn over such the reserve to the state board of ~~land~~ commissioners investments to be invested and the same shall be invested by ~~said-state the~~ board of land--commissioners investments as part of the long term investment fund and out of the same and its earnings shall be paid the monthly installments, and any lump sum, then or thereafter arranged for. ~~provided,--however,--that~~ However, when there is sufficient money in the industrial insurance account in the agency fund to meet such compensation payments, any surplus remaining may be invested as specified in this section."

Section 74. Section 92-1113, R.C.M. 1947, is amended to read as follows:

"92-1113. Treasurer Division to keep accounts of segregations. The ~~treasurer-of-the-board~~ division shall keep an accurate account of all such segregations of the industrial insurance account in the agency fund, and ~~upon~~ direction-of-the-board shall divert from the account any sums necessary to meet monthly payments, pending the conversion into cash of any security, and in such case shall

1 repay the same out of the cash realized from the security."

2 Section 75. Section 92-1114, R.C.M. 1947, is amended
3 to read as follows:

4 "92-1114. Collection in case of default by
5 employer--cancellation of right to operate under plan No. 3
6 for failure to pay premium. (1) If any employer under plan
7 No. 3 shall default in any payment to the ~~industrial~~
8 ~~accident-board~~ division, the sum due may be collected by an
9 action at law in the name of the state and such right of
10 action shall be cumulative. The ~~industrial--accident-board~~
11 division is hereby authorized in its discretion to cancel an
12 employer's right to operate under plan No. 3 of the
13 ~~workmen's~~ WORKERS' Compensation Act for failure to pay the
14 premiums due. ~~provided--that--when~~ When the ~~industrial~~
15 ~~accident--board~~ division makes an order canceling an
16 employer's right for failure to pay premiums it shall be the
17 duty of the ~~industrial-accident-board~~ division to make such
18 order at least thirty (30) days before the cancellation
19 becomes effective and to send a formal notice to the sheriff
20 or sheriffs of the county or counties where the employer is
21 operating, and it shall be the duty of the said sheriff or
22 sheriffs to post a notice in at least three (3) conspicuous
23 places where the ~~workmen~~ WORKERS can readily see said
24 notices, to the effect that the ~~industrial-accident-board~~
25 division has canceled the right of the said employer to

1 operate under the act; and said notice shall give the date
2 of the effectiveness of said order. After ~~said~~ the
3 cancellation date the ~~said~~ employer shall have the same
4 status as an employer who is not enrolled under the
5 ~~workmen's~~ WORKERS' Compensation Act.

6 (2) When an employer's right to operate has been
7 canceled by the ~~board~~ division for failure to pay premiums
8 and when the ~~board~~ division, in its discretion finds that
9 the property and assets of ~~said~~ the employer are not
10 sufficient to pay ~~said~~ the premiums, the ~~board~~ division may
11 compromise ~~said~~ the claim for premiums and accept a payment
12 of an amount less than the total amount due."

13 Section 76. Section 92-1115, R.C.M. 1947, is amended
14 to read as follows:

15 "92-1115. Injury happening while employer is in
16 default. For any injury happening to any of ~~his-workmen~~ THE
17 EMPLOYER'S WORKERS during default in any payment to the
18 ~~industrial--accident-board~~ division, the defaulting employer
19 as to such injury shall be considered as having elected not
20 to come under the provisions of this act, except that he
21 shall be and remain liable to pay to the ~~industrial-accident~~
22 ~~board~~ division the amount of such default, together with the
23 penalty prescribed by section 92-1108."

24 Section 77. Section 92-1117, R.C.M. 1947, is amended
25 to read as follows:

"92-1117. Prosecution or settlement of cause of action. Any cause of action assigned to the state under the preceding section may be prosecuted or compromised by the board division, in its discretion."

Section 78. Section 92-1118, R.C.M. 1947, is amended to read as follows:

"92-1118. Application for compensation under plan No. 3. Where a ~~workman~~ WORKER is entitled to compensation under compensation plan No. 3, ~~he~~ THE WORKER shall file with the board division ~~his~~ AN application therefor, together with the certificate of the physician who attended him, and it shall be the duty of such physician to lend all necessary assistance in making application for compensation and such proof of other matters as may be required by the rules of the board division without charge to the workman. ~~provided,~~ ~~that--the~~ The filing of a certificate of the attending physician ~~shall~~ does not constitute a sworn claim for compensation."

Section 79. Section 92-1119, R.C.M. 1947, is amended to read as follows:

"92-1119. Payment of physician. For a proper compliance with the provisions of the preceding section, the physician, after approval by the board division, shall be paid out of the ~~board's division's~~ administrative moneys in the earmarked revenue fund, one and one-half dollars (\$1.50)

for each case."

Section 80. Section 92-1120, R.C.M. 1947, is amended to read as follows:

"92-1120. Application in case of death. Where death results from the injury, the parties entitled to compensation under compensation plan No. 3, or someone in their behalf, shall make application for the same to the board division. The application must be accompanied with proof of death and proof of relationship, showing the parties entitled to compensation, certificate of the attending physician, if any, and such other proof as may be required by the rules of the board division."

Section 81. Section 92-1122, R.C.M. 1947, is amended to read as follows:

"92-1122. Disbursements out of industrial accident account--employer to pay warrant. Disbursements out of the industrial insurance account in the agency fund shall be made by the ~~treasurer-of-the-board-as-the--board--may--order~~ division. If at any time there ~~shall~~ is not be sufficient money in the account with which to pay any warrants drawn thereon, the employer, on account of whose ~~workmen~~ WORKERS the warrant was drawn, shall pay the same, and upon his next contribution to ~~such~~ the account he shall be credited with the amount so paid, with interest thereon at the rate of six ~~per--centum~~ percent per annum from the date of such payment

to the date upon which the next assessment becomes payable; and if the amount of the credit exceeds the amount of such assessment, he shall have a warrant upon such account for the excess, and if ~~said~~ the warrant ~~be~~ is not paid for want of funds, it shall be credited to ~~such~~ the employer and be applied upon succeeding assessments."

Section 82. Section 92-1123, R.C.M. 1947, is amended to read as follows:

"92-1123. Earnings and interest on deposits--~~treasurer to-make-no-profit~~. All earnings made by the industrial insurance account in the agency fund by reason of interest paid for the deposit thereof, or otherwise, shall be credited to and become a part of ~~said~~ the account, and the making of profit, either directly or indirectly, by ~~the treasurer--of-the-board, or~~ any other person, out of the use of the account shall constitute a felony, and on conviction thereof shall subject the person making such profit to imprisonment in the state penitentiary for a term not exceeding two years, or a fine not exceeding five thousand dollars (\$5,000.00), or both such fine and imprisonment, ~~and the treasurer-of-the-board-shall-be-liable-upon-his-official bond-for-all-profits-realized-for-any-unlawful-use-of-the account.~~"

Section 83. Section 92-1401, R.C.M. 1947, is amended to read as follows:

"92-1401. Reference to vocational rehabilitation ~~division~~ of injured ~~workmen~~ WORKERS. The ~~industrial-accident board-of-the-state-of-Montana~~ division of workmen's WORKERS' compensation shall refer to the ~~vocational-rehabilitation division-of-the-board-of-education-of-the-state-of--Montana~~ department of social and rehabilitation services workmen WORKERS who have become permanently disabled as the result of injuries sustained within the scope and course of employment by an employer enrolled under the ~~Workmen's~~ WORKERS' Compensation Act of the state of Montana and who in the opinion of ~~said-board~~ the division can be vocationally rehabilitated, ~~and-said-vocational-rehabilitation-division~~ The department of social and rehabilitation services shall provide for the vocational rehabilitation of ~~such~~ the injured ~~workmen~~ WORKERS under the provisions of Title 41, Chapter 8, ~~Revised--Codes--of--Montana,~~ R.C.M. 1947 and ~~amendments-thereto.~~"

Section 84. Section 92-1402, R.C.M. 1947, is amended to read as follows:

"92-1402. Certification of determination to ~~industrial accident---board~~ division--review of award. When ~~said vocational-rehabilitation-division~~ the department of social and rehabilitation services has provided all feasible vocational rehabilitation to ~~such~~ an injured ~~workmen~~ WORKER or has determined that vocational rehabilitation is not

possible or feasible, it shall certify its determination to ~~said-industrial-accident-board~~ the division, at which time ~~said--board~~ the division shall reconsider and review any previous award of compensation to ~~such the~~ injured ~~workman~~ WORKER which is then in effect."

Section 85. Section 92-1406, R.C.M. 1947, is amended to read as follows:

"92-1406. Industrial accident rehabilitation account.

(1) The payments provided in section 92-1403 shall be made from the industrial accident rehabilitation account in the agency fund. Payments to ~~such the~~ account shall be made on or before ~~the-first-day-of~~ July 1 of each year as follows:

(1) (a) By each employer operating under the provisions of plan one of the ~~Workmen's~~ WORKERS' Compensation Act, an amount to be assessed by the ~~industrial-accident-board~~ division, not exceeding one per cent (1%) of the compensation paid to the employer's injured employees in Montana for the preceding fiscal year.

(2) (b) By each insurer insuring employers under the provisions of plan two of the ~~Workmen's~~ WORKERS' Compensation Act an amount to be assessed by the ~~industrial-accident--board~~ division, not exceeding one per cent (1%) of the compensation paid to injured employees of its insured in Montana during the preceding fiscal year.

(3) (c) By the ~~industrial-accident--board~~ division an

amount to be determined by the ~~industrial-accident-board~~ division, not exceeding one per cent (1%) of the compensation paid to injured employees in Montana from the industrial insurance account in the agency fund and the occupational disease account in the agency fund for the preceding fiscal year.

(2) Separate accounts of the amounts collected and disbursements made from the industrial accident rehabilitation account in the agency fund shall be kept for each of the plans. If in any fiscal year, the amount collected from the employers under any plan exceeds the amount of payments for employees of the employers under such plan, the assessment against the employers under such plan for the following year shall be reduced.

(3) The payments herein provided for shall be made to the ~~industrial--accident--board~~ division which shall credit the sums paid to the ~~said~~ industrial accident rehabilitation account which shall be in the custody of the state treasurer. Disbursements from the ~~said~~ account shall be made after approval by the ~~division-of-vocational-rehabilitation~~ department of social and rehabilitation services and upon audit and approval by the ~~state-controller-and-purchasing~~ agent department of administration.

(4) No part of the funds allocated or contributed as herein provided and contemplated shall be used in payment of

administrative expenses of the ~~industrial--accident--board~~
~~division~~ or ~~veational-rehabilitation-division~~ department of
 social and rehabilitation services."

SECTION 86. SECTION 92-101, R.C.M. 1947, IS AMENDED TO
 READ AS FOLLOWS:

"92-101. Name of act -- what each part to contain.
 This act shall be known and may be cited as the Workmen's
 Compensation Act or the Workers' Compensation Act. Part I
 (sections 92-101 to 92-843) shall contain those sections
 which have a general application to the whole of the act,
 and may be referred to as the "general provisions"; part II
 (sections 92-901 to 92-908) shall contain those sections
 which refer to compensation plan number one; part III
 (sections 92-1001 to 92-1012) shall contain those sections
 which refer to compensation plan number two; part IV
 (sections 92-1101 to 92-1123) shall contain those sections
 which refer to compensation plan number three."

SECTION 87. SECTION 82A-1004, R.C.M. 1947, IS AMENDED
 TO READ AS FOLLOWS:

"82A-1004. Division of ~~workmen's~~ workers' compensation
 -- creation -- head. (1) There is created a division of
~~workmen's~~ workers' compensation within the department. The
 division head is an administrator appointed by the governor
 as are directors in accordance with section 82A-106 of this
 act. Any reference in the Revised Codes of Montana, 1947 Any

~~reference--in--the--Revised--Codes--of--Montana, 1947~~ to the
~~industrial accident board~~ or the ~~division of workmen's~~
~~compensation~~ means the division of workers' compensation.

(2) The division is allocated to the department for
 administrative purposes only as prescribed in section
 82A-108 of this act. However, the division may hire its own
 personnel, and section 82A-108(2)(d) does not apply."

Section 88. Sections 92-104, 92-105, 92-108 through
 92-110, 92-112 through 92-115, 92-414, 92-415, 92-419,
 92-420, 92-427, 92-428, 92-430, 92-431, 92-611, 92-612,
 92-841, 92-843, 92-1404, R.C.M. 1947 are repealed.

-End-